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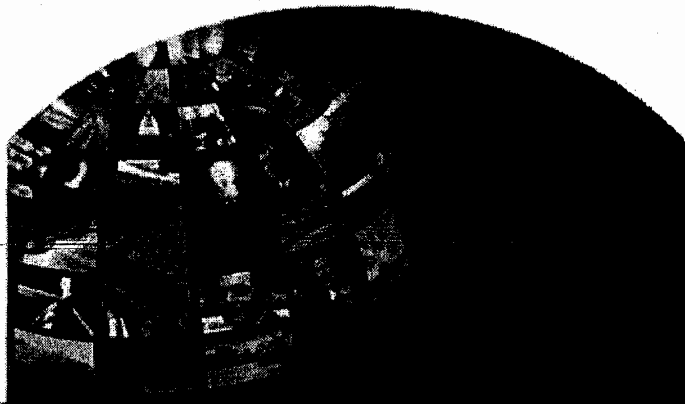

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SNL.com
Friday, May 31, 2013 6:08 PM ET

Praised as a tough 'cop on the beat,' FERC's Wellinghoff says manipulators must feel pain

By Glen Boshart

During a May 31 interview on C-SPAN, departing Federal Energy Regulatory Commission Chairman Jon Wellinghoff received high praise from several callers for his stern demeanor and appearance as a tough "cop on the beat" who is looking out for potential manipulation of wholesale power and natural gas markets.

The show's host also pointed to a recent article in The Baltimore Sun praising Wellinghoff for his "aggressive approach" in taking on Wall Street banks and large energy firms, especially in comparison to other regulators charged with looking for manipulation in the oil and gasoline markets. Sen. Maria Cantwell, D-Wash., has also praised Wellinghoff for his tough stance on market manipulation.

"Just seeing your appearance, you seem like a pretty serious guy," said one caller from eastern Connecticut. "You look like a tough guy who gets the job done." The caller went on to say that if the people in charge of the agencies tasked with overseeing the banking and other industries that "perpetuate scams" were more like Wellinghoff, "the country would be a lot better off."

Wellinghoff, who recently announced that he plans to step away from FERC after almost seven years as a commissioner, attributed his agency's aggressive approach to tracking down energy

market manipulators under his watch to the passage of energy legislation in 2005 and the extra resources he has dedicated to that effort since he became chairman more than four years ago.

The Energy Policy Act of 2005 boosted FERC's market oversight authorities and raised the amount the agency could penalize a company that engages in market manipulation from just $10,000 per day of illegal activity to $1 million per day, Wellinghoff explained. He also recalled that FERC had less than 10 employees assigned to ferreting out market manipulation when Enron's downfall occurred in late 2001, while it now has more than 200 people analyzing data and looking for suspicious market behavior and anomalies.

Wellinghoff suggested that his agency has not been shy in pursuing large penalties when it does discover market manipulation — a unit of Constellation Energy Group Inc. agreed to pay a $135 million fine in March 2012, and FERC is considering a recommendation by its staff that Barclays Bank PLC be forced to pay a record $469.9 million penalty — because sanctions have to send the proper message.

"If you go into a market and take $100 million out of it improperly, then the fine needs to be some multiple of that so that they know it's not just a traffic ticket; it's not just something that they can write off on their bottom line and do again and not fear the economic consequences," Wellinghoff stated.

As for how high the financial consequences will have to be to hurt JPMorgan Chase & Co. if FERC decides to pursue penalties in its investigation of that company's activities, Wellinghoff refused to speculate since that case is still ongoing. However, he said any penalties imposed by the agency for market manipulation have "to hurt enough so they don't do it again" and so other companies are deterred from engaging in similar activity.

Asked why he has decided not to seek another term once his current term expires June 30, he said that the time has simply come for him to move on after being with the agency for almost seven years and serving as its chairman for more than four. He insisted that he "has done a lot" during that time, citing a number of wide-ranging new rules and initiatives designed to encourage broader regional planning, energy efficiency and demand response. It simply is time to turn the reins of FERC over "to a new class," he maintained.

Wellinghoff has said he plans to stay on at the agency until the next head of FERC has been nominated or confirmed. If no one is established as his replacement in the meantime, he could stay on in that role until the end of the current congressional session.

While a number of people have been rumored to be in the running as Wellinghoff's potential replacement, including current FERC Commissioners John Norris and Cheryl LaFleur, the manner of Wellinghoff's resignation appears to indicate that the next chairman may come from outside the agency.

Gossip among Washington insiders suggests that the president may select Rose McKinney-James, who has ties to the Obama administration and is rumored to have the support of Senate Majority Leader Harry Reid. McKinney-James is the managing principal of Energy Works Consulting and of McKinney-James & Associates, both of which are based in Las Vegas.

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Greenwire

FERC: Outgoing chairman fields calls on C-SPAN, reflects on his legacy

Hannah Northey, E&E reporter

Published: Friday, May 31, 2013

The chairman of the Federal Energy Regulatory Commission said today that he's stepping down because he has been there "a long time" and has managed to push through major reforms in grid planning and oversight of the energy markets.

"I've been there seven years, which is a long time for a FERC commissioner," Chairman Jon Wellinghoff said during an interview with C-SPAN's "Washington Journal." "I think it's time to move on, look for other opportunities and sort of turn it over to the next group."

Wellinghoff came to FERC to fill a vacant seat in 2006 and was reconfirmed in 2008 for a full five-year term as a commissioner. President Obama tapped him in March 2009 to become chairman; his current term expires at the end of next month.

During his tenure, the former Nevada consumer advocate ushered in far-reaching rules to revamp how new power lines are planned and paid for, and eased the path for renewable generators to connect to the grid. He also oversaw the agency's implementation of new policies to strengthen demand response and spark innovative transmission and "smart grid" technologies.

"I've done a lot there, and I think it's time to turn it over to a new class," he said.

Wellinghoff will continue leading the commission and its 1,500 employees until Obama picks a replacement and secures Senate confirmation.

There is a lot of talk in Washington about whom the president might choose. Sources have pointed to FERC's two sitting Democratic commissioners, Cheryl LaFleur and John Norris (Greenwire, May 29).

Wellinghoff said little about what's next for him, but he vowed to recuse himself from any votes involving firms he'll be speaking with in coming months. Federal rules will prohibit him from doing business before the commission for one year after his departure.

He touched on the agency's stepped-up oversight of manipulation in the wholesale power and gas markets, and said FERC has already collected enough in fees from users and fines from manipulation cases to cover its annual budget of more than $300 million.

"We already almost paid for ourselves," he said.

FERC has recently stepped up its oversight of market manipulation and collected millions in fines from Wall Street banks accused of gaming power markets, including Constellation Energy Commodities Group. Wellinghoff said scrutiny has ramped up since the 2001 Enron scandal and since FERC obtained more authority under federal law to oversee the markets and impose fines of up to $1 million daily.

"I think we're actually doing it very effectively in the sense that I think we're corralling in the good portion of what fraud there is out there," he said. "We're seeing a lot less now, certainly, than we did see back in the Enron days, so I think we can have confidence in these markets going forward."

The chairman did not provide a timeline for when FERC would conclude its investigation of JPMorgan Chase & Co. FERC has accused the bank of overcharging grid operators and customers in Michigan and California up to $83 million, drawing the ire of lawmakers from those states (Greenwire, May 30). The timeline could depend on whether FERC settles the case or issues an order, he said.

The outgoing chairman also took questions from C-SPAN callers, some angry over the agency's approval of new gas pipelines to ship around a newfound glut of shale gas.

"I got breast cancer because of you, buddy," said one caller who said she got sick from methane leaking into a nearby well.

Wellinghoff said that such issues are not under FERC's jurisdiction and instead are handled by the federal or state environmental agencies, and that he does believe gas can be developed responsibly.

"We have to recognize there are trade-offs we have to make to ensure we can have the quality of life" we desire, he said. "That doesn't mean it can't be done in an environmentally sensitive way to minimize damage" to consumers and the environment.

Wellinghoff also said he believes that potential exports of domestic natural gas will not cause prices to spike, noting that export terminals -- that FERC must approve -- are expensive and time-consuming to build. Instead, the United States is likely to see production continue to increase and new shale plays will be found, and prices will remain relatively stable, he said.

"We're seeing new availabilities of gas that we never even knew were in existence," he said. "The price is going to stay very stable for a long time, between the $3 and $6 range."

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Inside FERC
June 3, 2013

Wellinghoff set to resign once replacement is confirmed, will continue to lead commission and vote

Chairman Jon Wellinghoff has told President Obama that he will step down from FERC once a replacement is confirmed by the Senate, a commission official said last week, confirming rumors that had swirled through the Washington energy community over the past few weeks.

In the meantime, Wellinghoff "will continue as chairman and vote on matters before the commission," said FERC spokesman Craig Cano.

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009 and presided over major rulemakings on transmission planning and cost allocation, renewable energy, conservation and demand response. His extensive legacy also includes aggressive monitoring and investigation of energy market manipulation and restructuring of the commission's offices to emphasize infrastructure protection and policy and innovation.

Wellinghoff's current term expires at the end of June, after which he can continue to serve during a grace period running through the current session of Congress.

Sources told Platts earlier last week that Wellinghoff had told senior staff of his plans and that a public announcement would be made soon.

Attention now turns to Wellinghoff's replacement, and various sources have said the new commissioner likely will be named chairman. According to one source, an announcement from the White House on the nominee is imminent.

Candidates said to be in the running for the spot include: Rose McKinney-James, a former Nevada Public Service Commission member with ties to the Obama presidential campaign and Senate Majority Leader Harry Reid; Ron Binz, a former chairman of the Colorado Public Utilities Commission; Collette Honorable, chairman of the Arkansas Public Service Commission; and attorney Regina Speed-Bost, a partner with Schiff Hardin.

Speed-Bost, who started her career at FERC, said it "would be an honor to serve on the commission," though she added that there had been no official conversations with the White House. "I believe I know the industry very well, and would have something to offer" if chosen, she said.

A call to McKinney-James seeking comment was not returned by press time. Honorable and Binz declined to comment.

While serving as chairman of the Colorado PUC from January 2007 to April 2011, Binz was an active member of the National Association of Regulatory Utility Commissioners. Prior to that, he was an energy and telecommunications consultant, served as president of the Competition Policy Institute and directed the Colorado Office of Consumer Counsel.

Honorable's name has come up before, and she would provide Southern state representation currently lacking at the commission. She has served on the Arkansas commission since 2007 and was named chairman in January 2011.

Senator Ron Wyden, chairman of the Energy and Natural Resources Committee, was among those who touted Wellinghoff's accomplishments at FERC. "Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets," said the Oregon Democrat. "While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply."

NARUC President Philip Jones applauded Wellinghoff's efforts to "help build understanding and bridge differences" between federal and state regulators. "Although we have had our disagreements . . . we utilized our collaborative dialogues to maintain a positive relationship."

Wellinghoff's strong support for development of demand response resources was reflected in remarks by Dan Delurey, executive director of the Association for Demand Response and Smart Grid.

The chairman "moved the demand response ball down the court, beyond just 'curtailment' programs aimed at ensuring reliability," said Delurey, adding that Wellinghoff's "vision and forethought . . . puts him among a rare group of policymakers who can be said to have helped an entire industry turn a corner and move in a new direction."

With backing in the Senate by Reid, Wellinghoff was confirmed and joined FERC in 2006 as a commissioner. In a December 2007 package deal involving a new term for then-Chairman Joseph Kelliher, Wellinghoff received a fresh five-year term.

Following his first inauguration in January 2009, Obama elevated Wellinghoff to chairman, replacing Kelliher.

Before joining FERC, Wellinghoff was in private law practice. He also served two terms as Nevada's first consumer advocate. In that role, he represented utility consumers before the Public Utilities Commission of Nevada, FERC and in appeals before the Nevada Supreme Court.

Chris Newkumet

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Electricity Policy

Jon Wellinghoff's legacy at FERC? Judgment must wait on future results

By Kennedy Maize

May 31, 2013 – Jon Wellinghoff is leaving the Federal Energy Regulatory Commission sometime soon. What legacy does he leave behind? It's a difficult question to answer, in part because of what he brought to the commission to begin with.

While a lawyer, like most FERC commissioners, Wellinghoff was different than most prior commissioners in that he was neither a Washington insider nor a former state utility regulator. He was a state consumer advocate, the first ever to get a slot at FERC, and coming from an institutional environment skeptical of how regulators have operated. He was truly an outsider.

Here are some of the most memorable past FERC appointees,: Charlie Curtis (former House staffer), Rick Richard (former Senate staffer), Chuck Trabandt (former Senate staffer), Betsy Moler (former Senate staffer), Branko Terzic (former state regulator), Curt Hebert (former state regulator), Mark Spitzer (former state regulator), John Norris (former state regulator), Tony Clark (former state regulator).

Unlike most of his predecessors, Wellinghoff spent much of his earlier career challenging state regulators and federal laws and rules from the outside. Before his FERC appointment, Wellinghoff served two terms as Nevada's first utility consumer advocate. As he proudly noteson his section of the FERC web site, in Nevada he wrote the first state integrated planning law for utilities and was the "primary author" of the state's renewable energy portfolio standard.

Wellinghoff was never particularly close to state regulators and at FERC had frequent polite disagreements with the National Association of Regulatory Utility Commissioners. Upon his resignation announcement, Washington state regulator Philip Jones, the current president of NARUC, said, "Under his watch, Chair Wellinghoff spearheaded the several FERC-NARUC collaborative dialogues on issues of regional and national concern. These discussions help build understanding and bridge differences between federal and State regulators. Although we have had our disagreements, as there is always a natural tension between State and federal governments, we utilized our collaborative dialogues to maintain a positive relationship."

When Wellinghoff was first named to the commission in 2006 as a minority member, at the behest of Senate Majority Leader Harry Reid (D-Nev.), he scarcely made a ripple and drew no notice even from the New York Times. When named chairman in 2009, the Times highlighted his green credentials, quoting the veteran Natural Resources Defense Council electricity guru Ralph Cavanagh, "He's been a consistent advocate of sustainable energy policies — energy efficiency, renewable energy and clean distributed resources, and he has focused on making sure these resources are treated fairly in energy markets (many of which had been notorious for hostility to these relative newcomers)."

What stands as Wellinghoff's signature accomplishments as a federal regulator? Several accounts properly point to FERC's Order No. 1000, which he championed and pushed through the commission approval process.

This is the FERC rule that dramatically changes the way the transmission grid will be planned and developed in the future, mandating a collaborative regional process. The order has drawn fire from the two Republicans on the commission for its provision that drops FERC's prior deference to incumbent transmission owners, as well as the commission's willingness to ignore the historic preference for honoring existing contracts, blessed by the Supreme Court as the Mobile Sierra doctrine.

The implementation of Order No. 1000 has been slower and more contentious than Wellinghoff and the commission majority intended. But it has gone forward. Whether future commissions will continue the emphasis on turning the transmission system into something that requires closer and more inclusive planning, both within regional groupings and across regional lines, may burnish or dim Wellinghoff's legacy.

How the new transmission planning regime will work won't be clear until long after Wellinghoff has left the commission. But that is often the fate of FERC leaders who plow new policy ground.

Perhaps not far behind Order No. 1000 in importance, and a potentially significant Wellinghoff legacy, was FERC Order No. 745, adding to its prior Order 719, that in organized markets demand response resources must be compensated for the service they provide to the market at the locational marginal price for energy.

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Electricity Policy

The name game begins for replacement of FERC Chairman Jon Wellinghoff

May 31, 2013

By Kennedy Maize

May 31, 2013 – With Jon Wellinghoff's tenure at the Federal Energy Regulatory Commission coming to an end, who will replace him as chairman and as a third Democrat on the commission? The name game has already begun.

The "inside the Beltway" front runner to replace Wellinghoff as chairman is John Norris. He's a dedicated Democrat, former chairman of the Iowa Utilities Board, and former chief of staff for Agriculture Secretary Tom Vilsack. He has been a diligent FERC commissioner and carved out a niche on the issue of reforming formula transmission tariffs. But Norris has detractors. One veteran energy industry observer says, "Norris talks too much and says too little" at commission public sessions.

A leading outside candidate for appointment to the commission, and perhaps to be named chairman, is Colette Honorable, chair of the Arkansas Public Service Commission. A black lawyer from Little Rock, she's been active in state politics as a Democrat and a player in the machinations of the National Association of Regulatory Utility Commissioners. She's been mentioned in several press accounts as a likely appointee.

Another outsider, who hasn't drawn much attention but who has ties to Senate Majority Leader Harry Reid (D-Nev.), is Rose McKinney-James. She is also a black lawyer, who served on the Nevada Public Utility Commission and was chairman of the state's Department of Business and Industry. She's the principal of a private Las Vegas firm, Energy Works LLC, and serves on the board of directors of both the Energy Foundation and the American Council for an Energy Efficient Economy. According to the ACEEE web site, she served on the 2008-2009 Obama administration transition team and was the lead on FERC issues.

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Inside FERC
June 3, 2013

Reliability could play key role as states eye potential legal challenges to ROFR laws

The need to maintain system reliability could play a major role in states' defense of laws designed to provide incumbent utilities the right to build certain transmission lines, as observers say that such considerations could help those laws withstand scrutiny in the event of all-but-certain legal challenges.

The ideas are emerging as more states are pursuing laws that offer some protection of incumbent utilities' right to build certain transmission lines without competing with other developers, also called their right of first refusal, in the face of FERC's implementation of Order 1000.

Under the rule, FERC largely eliminated incumbent utilities' ROFRs. In recent comments defending the commission's decision, Chairman Jon Wellinghoff said that "I don't believe a state could say only an incumbent can build in the state, period."

Said Wellinghoff, "I believe that's a violation of the Commerce Clause. And I think a non-incumbent who had a plan approved by a regional entity could take that state to court. I think they'd have a very good case."

While FERC in Order 1000 said that nothing in the rule "is intended to limit, preempt, or otherwise affect state or local laws or regulations with respect to construction of transmission facilities," the National Association of Regulatory Utility Commissioners recently charged that FERC had gone beyond its original intent to remove federal ROFRs and had taken steps that infringe on state authority (IF, 27 May, 1). In doing so, NARUC expressed concern over Wellinghoff's comments and pointed to FERC's actions in recent orders on Order 1000 compliance filings.

In recent petitions for reconsideration, NARUC argued that FERC erred in its directives to remove references to state law from the tariffs of PJM Interconnection, Midcontinent Independent System Operator and South Carolina Electric and Gas.

At the same time, a growing number of state legislatures are examining and enacting laws that create some sort of state ROFR, with Oklahoma and Indiana most recently passing such provisions.

But in a presentation to a National Regulatory Research Institute webinar May 29, NRRI General Counsel Rishi Garg found that the ROFR law passed in Oklahoma as well as laws approved in Minnesota and the Dakotas in recent years are "facially discriminatory" under the US Constitution's dormant Commerce Clause, a legal construct that bars states from "unjustifiably" discriminating against or burdening interstate commerce.

As such, this would subject those laws to what is called the strict scrutiny standard, Garg said, which holds that such laws are invalid unless they can be "justified by a factor other than economic protectionism" and if the state can show that there was no other means to advance its interest.

In asking what "legitimate state interest" is being protected in such laws, Garg suggested that states analyze whether a competitive solicitation model for transmission development or an approach that prefers incumbents would be better for its state and ratepayers, taking into account potential impacts on the reliability of its grid, economic and public policy goals and other considerations.

This type of analysis could help a state ROFR law withstand a court challenge under strict scrutiny, Garg said. In an earlier interview, Garg noted that it is not beyond the realm of the possible that a court considers reliability considerations as legitimate and justified state interests.

In response to a question on the potential for reliability to be a state interest in a dormant Commerce Clause defense, Suffolk University law professor Steven Ferrey said on the call that most dormant Commerce Clause exceptions deal with things that need to be quarantined, which cannot be easily applied to electricity.

But Ferrey said that reliability is an "excellent consideration" for states looking at these issues, and if the states handle the matter correctly and do not use reliability arguments to veil other motives, then the argument could be in play.

In an interview after the call, Ferrey pointed to several pending cases where both the dormant Commerce Clause as well as the Supremacy Clause — under which a state's law can be found to be beyond state authority — are in play and involve both power issues and challenges to state actions.

Those included Rocky Mountain Farmers Union v. Goldstene, which is on appeal and currently awaiting a ruling in the 9th US Circuit Court of Appeals, which dealt California's low carbon fuel standard; Entergy Nuclear Vermont Yankee v. Shumlin, on appeal before the 2nd US Circuit Court of Appeals, which pertains to the state's efforts to shutter the nuclear plant; and PPL EnergyPlus, et al. v. Solomon, et al., pending before the US District Court for the District of New Jersey, which is considering New Jersey's Long-term Capacity Agreement Pilot Program.

Ferrey also pointed to a May 20 US Supreme Court ruling in City of Arlington, Texas, et al., v. Federal Communications Commission, et al., in which the court ruled that the FCC could decide the scope of its authority under statute rather than just substantive matters within that authority, so long as it is reasonable.

In the 6-3 decision, the high court invoked the framework created under its 1984 decision in Chevron v. Natural Resources Defense Council, wherein courts defer to an agency's action in cases where the statute is silent or ambiguous and when the agency's justification is found to be a permissible construction of the statute.

In this case, the high court affirmed the lower court ruling, which held that "courts must apply the Chevron framework to an agency's interpretation of a statutory ambiguity that concerns the scope of the agency's statutory authority (i.e.,its jurisdiction)," according to the ruling.

What is noteworthy about the Arlington decision for potential challenges to ROFR issues, Ferrey said, is that both the Federal Power Act and the Communications Act of 1934, the law which FCC implements, are quite old and give states the authority to site and construction infrastructure.

For independent adjudicatory agencies like FERC and the FCC, Ferrey said, the court's finding that Chevron applies in this manner provides some latitude as long as your actions constitute a "reasonable interpretation" of the statute. As such, FERC's determination is entitled to some deference as to the breadth of its authority, including perhaps what is and is not included in tariffs.

While states could conceivably argue that FERC actions are impinging on its FPA-derived authority over construction of transmission lines, the commission could argue in response that ROFR-related actions fall within the scope of its jurisdiction because of their potential impact on rates.

Bobby McMahon

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Electric

Megawatt Daily
June 3, 2013

DR participation falls in PJM capacity auction

Bucking the trend of the past two years, the amount of demand response offered and cleared fell this year in the PJM Interconnection's annual capacity auction. Experts said PJM's pursuit of new rules for demand response may have had a dampening effect on offers while the lower prices in this year's auction limited how much demand response cleared.

The results of PJM's annual capacity auction for delivery year 2016/2017, also known as the reliability pricing model's base residual auction, were announced May 24 and showed sharp decreases in clearing prices throughout the region with the exception of the Public Service Enterprise Group zone in New Jersey.

About 12,408 MW of demand response cleared in this year's auction, a roughly 16% decrease from the 14,833 MW of demand response that cleared in last year's auction for delivery year 2015/2016 and also below the 14,118 MW total for delivery year 2014/2015. The MAAC zone — which includes Pennsylvania, New Jersey, Maryland and Delaware — saw a 1,299 MW decline in cleared demand response in this year's auction, while the rest of the region saw a decrease of about 1,126 MW.

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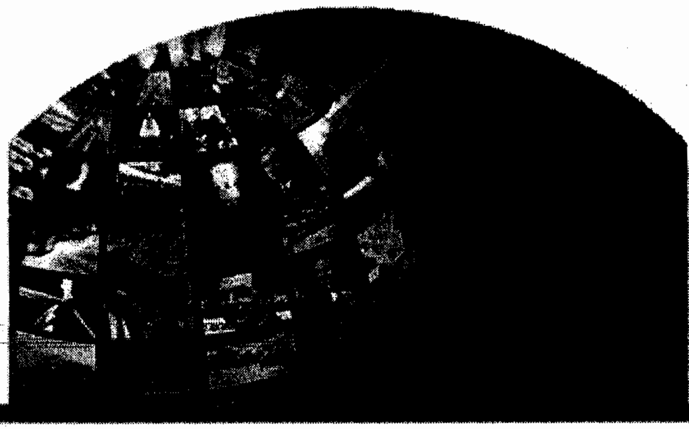

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Greenwire

FERC: WELLINGHOFF ANNOUNCES DEPARTURE; LAFLEUR TO STEP UP AS TEMPORARY CHAIRWOMAN

Hannah Northey, E&E reporter

Published: Thursday, November 21, 2013

Jon Wellinghoff, the Federal Energy Regulatory Commission's longest-serving chairman, announced today that he is officially stepping down Sunday and that Democratic FERC Commissioner Cheryl LaFleur will step in to temporarily lead the commission.

Wellinghoff, a driving force behind the Obama administration's efforts to green the electric grid, said today that he informed President Obama he will be exiting the commission Sunday. Obama has indicated he will nominate LaFleur as acting chairwoman upon his departure, Wellinghoff said.

Wellinghoff, a former Nevada consumer advocate and father of four, is heading to California to work for the Portland, Ore.-based law firm Stoel Rives LLP, widely recognized for its energy law practice.

With his wife, Karen Galatz, and two sons, Jules and Jacob, in the crowd today at FERC's monthly meeting in Washington, D.C., Wellinghoff thanked his colleagues for their hard work and bade them farewell.

"I'll miss you, and I love you all," Wellinghoff said.

LaFleur, a former New England regulator, will now lead the commission as the acting chairwoman, alongside Democratic Commissioner John Norris and Republicans Tony Clark and Philip Moeller.

The move potentially allows the Obama administration to sidestep the tricky job of nominating a new director and securing Senate support amid gridlock on Capitol Hill. That difficulty was highlighted by the publicly divisive nomination of Ron Binz, a former Colorado regulator who asked that his name be pulled from consideration for leading FERC following backlash among fossil-fuel-linked groups and a lineup of Senate and House Republicans (E&E Daily, Oct. 9).

It also quells Sen. John Barrasso's (R-Wyo.) concerns about Wellinghoff's ability to steer clear of potential conflicts of interest in light of his plan to work for a private law firm (E&E Daily, Nov. 8).

"This was the right decision," Barrasso said in a statement. "Chairman Wellinghoff should have left FERC as soon as he accepted his new job. It was completely inappropriate for him to continue to work at the FERC while continuing to influence decisions that affect his new employer."

Obama could now tap LaFleur to serve as the agency's chairwoman without Senate confirmation, or nominate someone outside the agency to serve as chairman or as a commissioner who would need Senate support.

Potential candidates, according to FERC watchers, include Colette Honorable, chairwoman of the Arkansas Public Service Commission; Norman Bay, the director of FERC's Office of Enforcement; Lynn Evans, a board member at the Tennessee Valley Authority; and Rose McKinney-James, a former commissioner with the Nevada Public Utilities Commission who is a Las Vegas businesswoman, lobbyist and renewable energy consultant.

FERC has in the past operated with only three or four commissioners, FERC spokeswoman Mary O'Driscoll said.

Wellinghoff expressed his respect and admiration for the agency's workers today and said the meeting is the commission's 999th and the agency is "batting a thousand."

Moeller reminisced about meeting the chairman when they were paired during the Senate confirmation process and Wellinghoff was scrambling to find cufflinks, and the seven years of working together that followed. "We've had quite a ride," Moeller said. "We've had our disagreements, but we haven't been disagreeable."

Reflecting on his legacy today, Wellinghoff said he's proud of fostering a pathway for the incorporation of demand-side resources like demand response and energy efficiency into the markets and implementing the far-reaching Order 1000 to bolster transmission planning and cost allocation.

As for disappointments, Wellinghoff couldn't name one.

"It's been a tremendous run at FERC over seven years, 4 ½ years I've been chairman," he said. "Obviously, I'm disappointed I'm leaving, but I think it's appropriate for everyone to move on."

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Gas Daily

November 22, 2013

WELLINGHOFF EXITS FERC; LAFLEUR TO BE ACTING CHAIR

Jon Wellinghoff, one of the highest-profile chairmen in the Federal Energy Regulatory Commission's 40-year history, is formally leaving his post Sunday, he announced Thursday at the commission's monthly meeting. He said the White House will name Commissioner Cheryl LaFleur as acting chair.

In the wake of the controversy surrounding the nomination of former Colorado regulator Ron Binz to replace Wellinghoff, and Binz's subsequent withdrawal from consideration, the White House has not yet named another candidate. The lag ensures that FERC will be left with an empty seat until sometime in 2014.

Thursday's announcement brings an end seven years on the commission for Wellinghoff, with five of those at the helm. At 1,709 days, he is FERC longest-serving chairman.

His term officially expired June 30, but he had been serving under a grace period that was set to expire with the end of the current session of Congress — likely within a few weeks depending on the legislative calendar.

The announcement also marks the end of an unusual exit strategy by Wellinghoff, which drew admonishment from a US senator and sparked questions from other observers.

The law firm Stoel Rives revealed in October that Wellinghoff would join the Oregon-based firm as a partner upon leaving the commission, which Wellinghoff had long said would be when a replacement was seated.

Wellinghoff confirmed the agreement to join the law firm but said he would stay on at FERC for an indefinite period.

Senator John Barrasso of Wyoming earlier this month questioned Wellinghoff on his decision to remain in his post even though he had accepted a job elsewhere. The Republican senator specifically raised concerns about the extent to which Wellinghoff was recusing himself during his lame duck period at FERC.

In a statement following Thursday's announcement, Barrasso called it "the right decision" and said Wellinghoff "should have left FERC as soon as he accepted his new job."

"It was completely inappropriate for him to continue to work at the FERC while continuing to influence decisions that affect his new employer," Barrasso continued. His resignation "will help restore the public's confidence in the integrity of the commission's decisions and lift the cloud over the agency as a whole."

Wellinghoff and other FERC officials said the chairman was recusing himself where appropriate. And FERC ethics officer Charles Beamon late last month told Platts that recusals were necessary in cases when a company or law firm with which Wellinghoff is discussing employment is directly involved in a matter before the commission — such as an intervening party in a particular issue.

Wellinghoff's tenure at FERC has been momentous, in part due to his consistent efforts to promote energy efficiency, demand response and green energy development within the confines of the commission's normal caseload and statutory mandates.

Under his chairmanship, FERC also has aggressively pursued market enforcement cases, levying big fines and charging heavy hitters such as J.P. Morgan, Barclays, Deutsche Bank and Constellation Energy with misconduct.

Speaking with reporters following the Thursday meeting, Wellinghoff said his major accomplishments included efforts to integrate demand-side management assets into electricity markets. Another notable accomplishment, he said, was Order 1000, which addresses regional planning and cost allocation related to electric transmission infrastructure. The commission is currently in the process of implementing the landmark order.

LaFleur, a Democrat, will control the gavel presumably until a replacement is named. "I'm looking forward to a smooth transition," she told reporters Thursday, declining further comment.

Chris Newkumet

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Boston Globe

MASS. NATIVE TO LEAD FEDERAL ENERGY AGENCY

By Erin Ailworth / Globe Staff / November 21, 2013

Massachusetts native and former National Grid executive Cheryl A. LaFleur on Monday will become the acting chair of the Federal Energy Regulatory Commission, an agency spokeswoman said Thursday.

LaFleur will replace chair Jon Wellinghoff, who is leaving the commission after nearly five years at its helm. He is expected take a post at Stoel Rives LLP, a law firm headquartered in Portland, Ore.

LaFleur's promotion to head of FERC—an independent agency that regulates the interstate transmission of oil, natural gas, and electricity—is expected to be formalized shortly by the White House, said FERC spokeswoman Mary O'Driscoll.

"For all intents and purposes, she will be chairman," O'Driscoll said.

LaFleur, who earned a law degree at Harvard Law School, was born in Arlington and has a home in Wellesley. She was first appointed to the commission by President Barack Obama in 2010 and, according to her agency biography, her priorities have been to strengthening the reliability and security of power delivery systems and promoting regional planning for transmission projects.

In previous discussions with the Globe, LaFleur has emphasized the need for the nation to have a diverse power supply that includes alternative energy resources.

Erin Ailworth can be reached at erin.ailworth@globe.com. Follow her on Twitter @ailworth.

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The Energy Daily

November 22, 2013

LAFLEUR NAMED ACTING FERC CHAIR TO REPLACE WELLINGHOFF

Ending the longest chairmanship in commission history, Federal Energy Regulatory Commission Chairman Jon Wellinghoff announced Thursday he will leave FERC Sunday and that President Obama intends to tap Commissioner Cheryl LaFleur as acting chairman.

Wellinghoff's announcement at the conclusion of FERC's monthly open meeting Thursday leaves open the question of who will replace him, and whether LaFleur will become permanent chair or be replaced as chair by the future nominee.

Sources say it not common to demote an acting chairman, suggesting LaFleur has a good chance to become permanent chair if she is judged to perform well during what amounts a short-term audition before her current term ends next June.

However, past candidates for FERC vacancies have declined nominations unless they were given the chairmanship of the agency, meaning the Obama administration could have a smaller pool of candidates if the chairmanship is unavailable.

With the White House engrossed in numerous policy crises, picking and vetting a FERC nominee may be seen by the administration as a relatively low-priority item, meaning FERC could remain split at two Democrats and two Republicans for some time.

LaFleur has recently raised questions about aspects of several tough FERC enforcement actions, which may have earned her some industry support to be elevated to acting chairman.

Rumored candidates for the FERC vacancy include Arkansas Public Service Commission Chairman Collette Honorable, although her election Wednesday as president of the National Association of Regulatory Utility Commissioners suggests that is less likely. Other names mentioned include former North Carolina utilities regulator Jim Kerr and Regina Speed-Bost, a partner at Schiff-Hardin LLP.

Wellinghoff's chairmanship of 1,709 days surpasses in length the 1993-1997 chairmanship of Betsy Moler. He lingered on the commission for months this year as Obama's first choice to replace him, former Colorado utility regulator Ron Binz, ran into trouble on Capitol Hill and ultimately withdrew after Senate Republicans deemed him hostile to fossil fuels.

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THE HILL'S E2WIRE BLOG

November 21, 2013, 02:49 pm

FERC CHAIRMAN STEPPING DOWN SUNDAY

By Laura Barron-Lopez

Federal Energy Regulatory Commission Chairman (FERC) Jon Wellinghoff announced his resignation Thursday at a commission meeting. Wellinghoff, the longest-serving FERC chairman, announced he will leave his post on Sunday.

Wellinghoff first announced his decision to step down as the nation's top electric grid regulator in May but was asked by the White House to stay until they found a replacement.

He is credited with spearheading an expansion of the agency's oversight of the electric grid and various investigations into questionable trading tactics by Wall Street banks.

Wellinghoff said President Obama plans to appoint Cheryl LaFleur as his replacement, FERC confirmed.

Obama intends to name LaFleur, a current commissioner for FERC, as acting chair upon Wellinghoff's departure, a White House official said Thursday.

The administration wishes Wellinghoff the best of luck, the official added.

Stoel Rives LLP announced Wellinghoff's plans to join the law firm in October. The law group specializes in energy, environment and natural resources litigation.

Wellinghoff's decision to remain FERC chairman until the administration named a successor has drawn backlash from Sen. John Barrasso (R-Wy.)

Barrasso sent a letter to Wellinghoff earlier this month, asking him to explain how he could stay with the agency when his future clients would be affected by his decision.

"This was the right decision," Barrasso said in a statement Thursday after Wellinghoff announced his decision to resign.

"Chairman Wellinghoff should have left FERC as soon as he accepted his new job. His resignation will help restore the public's confidence in the integrity of the Commission's decisions and lift the cloud over the agency as a whole," he added.

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Greentechmedia.com

THE GREATEST HITS OF FERC'S JON WELLINGHOFF

Eric Wesoff
November 21, 2013

Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, is resigning his post after a four-year tenure marked by formative support for renewable energy, energy storage, demand response and smart grid technologies. He's speaking at GTM's U.S. Solar Market Insight event in San Diego next month.

Wellinghoff, Craig Cornelius of NRG Solar, and David Shuford of Dominion will be discussing "Tomorrow's Utility in a Distributed Generation World," as these industry thought leaders map out the future for U.S. utilities and how utility business models will shift the solar market.

It's worth hearing what regulatory bodies like FERC are thinking as they set the trajectory for the utilities in the coming distributed generation era. Here are some words from and about Wellinghoff over the last few years:

"I oversee the biggest machine in the world," he said, referring to the nationwide power grid, over which FERC has incomplete jurisdiction.

Wellinghoff was a champion of FERC decisions that helped boost the market power and viability of technologies like demand response. FERC Order 745, put into effect in 2011, has helped boost demand response revenues by requiring that grid operators like PJM pay them prices more closely matched to the wholesale market prices that generators make, for example. FERC Order 755 has allowed fast-acting DR and energy storage assets to balance grid frequency alongside natural gas turbines and other generation resources.

Wellinghoff made a presentation in 2012 that was notable for its vision of more rational energy-pricing markets and its practical graphics. "A Day in the Life of the Grid" revealed that the FERC commissioners get the smart grid and the necessity "to unleash the information and unleash the power" of the American electrical grid, as

Wellinghoff put it. His presentation gave an hour-by-hour snapshot of wholesale utility pricing across the Midwest Independent System Operator (MISO) using diagrams based on Ventyx imaging software. (This is one of my favorite utility grid presentations -- and I've seen a few.)

Wellinghoff joined The Energy Gang on a recent podcast to discuss managing the creative destruction caused by solar in power markets.

"Solar is growing so fast it is going to overtake everything," Wellinghoff told GTM. If a single drop of water on the pitcher's mound at Dodger Stadium is doubled every minute, Wellinghoff said, a person chained to the highest seat would be in danger of drowning in an hour. "That's what is happening in solar. It could double every two years," he said. As GTM Research's MJ Shiao recently noted, in the next 2 1/2 years the U.S. will double its entire cumulative capacity of distributed solar -- repeating in the span of a few short years what it originally took four decades to deploy.

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Gas Daily
November 22, 2013

FERC OPENED 24 NEW ENFORCEMENT CASES IN FY 2013

The Federal Energy Regulatory Commission's efforts to combat fraud and market manipulation in FY-13 resulted in $304 million in civil penalties and the disgorgement of about $141 million in unjust profits, FERC staff said Thursday.

The commission opened 24 new investigations in FY-13 while closing 29 other cases with either no action, a settlement or a formal enforcement proceeding, according to the staff report.

During FERC's monthly meeting, Office of Enforcement Director Norman Bay noted that the report included several examples of instances when FERC did not further pursue a particular enforcement action.

"I think that there are certain common themes that run throughout those matters that we did not pursue," Bay said. Those themes include the prompt detection of a violation, timely remediation of an issue and quick self-reporting to FERC, along with full cooperation with FERC during the investigation.

"Those factors help explain the matters that the Office of Enforcement declined. I would say that those are all consistent with what you would expect in an entity with a strong culture of compliance," Bay said.

About half of FERC's investigations in FY 2013 involved market manipulation allegations or false statements, while about a third involved alleged violations of reliability standards, according to Susan Beall, an attorney with the enforcement office.

Alleged anticompetitive conduct and behavior that threatens transparency in regulated markets made up the remainder of the agency's caseload.

Commissioner Tony Clark related that during investigations, FERC staffers often see compliance documents that "read perfectly, even when there may be some rather egregious behavior" under review.

In response, Bay said "it's the difference between walking the walk and talking the talk, and virtually every entity that we have investigated has reams of materials devoted to compliance. It's not enough to have a paper program, but what an entity has to do is strive to achieve an actual culture of compliance."

The bulk of the penalties and disgorged profits were from a July settlement, the largest in FERC history, with JP Morgan Ventures Energy. It included $285 million in civil penalties and disgorgement of $125 million in profits. The settlement followed a FERC investigation of JP Morgan's bidding practices in Midwest and California electricity markets.

JP Morgan neither admitted nor denied FERC enforcement staff's allegations as part of the settlement. And the settlement did not include individual penalties for specific JP Morgan employees, even though several were identified in the investigation.

The FY-13 total does not include $453 million in penalties and a disgorgement of nearly $35 million in profits FERC assessed in July against Barclays Bank and four traders for alleged violation of FERC's anti-manipulation rule. Barclays and the traders have challenged that penalty in federal court.

Commissioner John Norris said he hoped to work further with enforcement staff on individual trader responsibility and penalties, saying that would bring more accountability as well as "a level of intensity" against individual traders engaging in violations.

Chairman Jon Wellinghoff told reporters after the meeting that what the commission is trying to do is "provide the industry with as much information as possible about the enforcement actions, and by doing that, it'll help direct the activities of the industry."

He went on to say that "the industry continues to clamor for this information, and we think it's important to provide it to them so they have adequate direction and guidance."

According to the report, FERC staff in FY-13 conducted 29 financial, compliance and performance audits of public utilities, natural gas pipelines and gas storage companies. These audits resulted in 360 corrective-action recommendations and more than $15.4 million in directed refunds.

Brian Scheid, Bobby McMahon

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Reuters

U.S. FERC IMPOSES $304 MLN IN FINES ON ENERGY FIRMS IN FY2013

Thu, Nov 21 2013

By Scott DiSavino

Nov 21 (Reuters) - U.S. federal energy regulators imposed more than $304 million in fines against energy companies in fiscal 2013 primarily for market manipulation and false reporting activities.

It was the highest yearly total, according to Reuters data.

The Federal Energy Regulatory Commission (FERC) on Thursday said its enforcement division staff in fiscal 2013 also forced companies to disgorge an additional $141 million in unjust profits.

FERC officials were not immediately available to confirm the fines imposed were a record, but it was the highest total in Reuters data since Congress in 2005 significantly increased the penalty the commission can impose in the wake of the California energy crisis of 2000-2001.

FERC's enforcement office has become much more aggressive over the last few years, especially against market manipulation by banks and others in the power market, imposing more than $1 billion in fines since 2007.

FERC said in the report Thursday that its enforcement office focused on matters involving fraud and market manipulation, violations of reliability standards, anticompetitive conduct and actions that threaten the transparency of regulated markets.

"Enforcement does not intend to change these priorities in fiscal year 2014," FERC said.

The commission's fiscal year begins Oct. 1.

In fiscal 2013, FERC said it approved its largest settlement to date with U.S. bank JPMorgan Chase & Co for $410 million in combined civil penalties and the disgorgement of unjust profits for alleged power market manipulation and making of false statements to regulators.

FERC also said it ordered British bank Barclays Plc to disgorge $34.9 million in unjust profits and pay, with certain of its traders, more than $450 million in civil penalties for allegedly manipulating the power market in California.

Barclays has disputed the penalty, and FERC has sued the bank in federal court in California to recover the monies.

In addition, FERC ordered a unit of UK oil company BP PLC to pay a $28 million civil penalty and disgorge $800,000 in unjust profits for allegedly manipulating the natural gas market. BP is fighting the fine.

FERC said its enforcement office staff opened 24 investigations in fiscal 2013 compared to 16 in fiscal 2012. Of the investigations opened in 2013, the commission said 11 involve market manipulation or false statements.

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Electricity Daily

FERC LAYS OUT ITS ENFORCEMENT RECORD

22Nov2013

By Kennedy Maize

November 22, 2013 – The Federal Energy Regulatory Commission's enforcement office in fiscal year 2013 reached settlements of civil penalties totaling more than $304 million and disgorgement of nearly $141 million in "unjust profits," according to a report by the office released during yesterday's monthly commission meeting. Norman Bay, head of the Office of Enforcement, said the report provides guidance to those the commission regulates, and transparency into the policies and practices of the enforcement office.

The report comes as criticism has been leveled at FERC's enforcement actions for lack of transparency and unclear guidance as to what constitutes market manipulation. At this week's meeting of the National Association of Regulatory Utility Commission, a former FERC chairman and a former general counsel agree with Harvard economist William Hogan that the agency's enforcement program is so opaque that it threatens competitive markets. Joseph Kelliher, a former chairman who now works for NextEra Energy, told a NARUC panel that his experience with the private sector has changed his view of FERC's enforcement policies and practices. "It's much harder to comply than I thought," he said, noting that the FERC policy depends on many undefined terms, such a "strong compliance culture." William Scherman, former FERC general counsel, told the panel that the commission has been "sprinkling Enron dust" on marketers and has offered no coherent theory of what constitutes market manipulation.

At the FERC meeting, Bay stressed that one way to understand the way his office views market manipulation is in the report's discussion on cases where no action was taken. He stressed in cases where FERC chose not to pursue further action, there was "prompt detection and remediation" by the regulated entity, there was "little harm," and that the "conduct underlying the intervention was unintentional." All this adds up to "what you expect to see in an entity that has a strong culture of compliance," said Bay.

Among the highlights in the "Report on Enforcement":

—FERC has filed in federal district court in California to uphold the agency's proposed fine of $435 million against Barclays Bank and disgorgement of $18 million in "unjust profits" and interest. Barclays, atypically, refused to settle with FERC, forcing the agency to go to the courts for a judgment.

—The commission approved a settlement with JP Morgan concerning trades in California and the Midwest. The company settled for $285 million in civil penalties and disgorged $125 million. According to FERC, "the company admitted the facts set forth in the agreement," but "neither admitted nor denied the violations." JP Morgan also agreed to "waive financial claims against the California Independent System Operator Corp."

—During the fiscal year (which ended September 30, 2013), the office "completed 29 financial and operational audits of public utilities and natural gas pipelines covering a wide variety of topics." As a result, said FERC, the agency made 360 recommendations for correction action and directed $15.4 million in refunds.

In other action yesterday, FERC gave final approval to the North American Electric Reliability Corp.'s version 5 of its Critical Infrastructure Protection reliability standards. The final rule, said FERC, "also approves 19 new or revised definitions associated with the CIP version 5 standards for inclusion into the glossary of terms used in NERC reliability standards." But the commission also proposed a rule remanding to NERC its proposed revisions to the "transmission operations" and "interconnection reliability operations and coordination reliability standards." FERC says the remand comes because "NERC proposed revisions that would no longer require entities to plan to operate within all system operating limits...."

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The Energy Daily
November 22, 2013

FERC RAISES RELIABILITY, OPERATING ISSUES WITH NERC RULE CHANGES

BY JEFF BEATTIE

Saying the proposals would create "reliability gaps" and potentially allow utilities to wander outside "system operating limits," the Federal Energy Regulatory Commission Thursday voted to order the North American Electric Reliability Corp. to revamp two changes proposed by the grid reliability watchdog to critical reliability standards related to transmission interconnection and operations.

At its monthly public meeting, FERC approved another standard proposed by NERC governing identification of critical energy infrastructure assets and development of plans to protect them from cyber-attacks and other security threats. But at the same time FERC required several changes to those standards, known as Version 5 Critical Infrastructure Protection (CIP) Reliability Standards, calling key language in them "unduly vague and ambiguous."

"There is a common element that is running through these orders today," FERC Chairman Jon Wellinghoff said during Thursday's meeting. "Under [the Federal Power Act], the commission must ensure reliability standards are clear and enforceable. This obligation requires us to remand or question those standards that may be unclear or that may create gaps in reliability, as we do today...."

In the proposed remands to NERC—which FERC issued in the form of a notice of proposed rulemaking—the commission acknowledged that NERC's proposed changes provide certain "organizational and administrative improvements" to NERC's existing Transmission Operations (TOP) and Interconnection Reliability Operations and Coordination (IRO) standards.

But the commission also flagged certain significant new problems, including that NERC's proposed revisions "create reliability gaps in the standards that are critical to the reliable operation of the bulk power system," according to a FERC staff presentation Thursday.

"For example, [FERC's proposed remand] indicates that NERC's proposed revisions would no longer require entities to plan to operate within all system operating limits," staff said.

Staff did not elaborate during Thursday's meeting, and FERC's decision explaining its proposed remand of the NERC changes had not been posted as of press time.

And while FERC approved the latest version of NERC's CIP standards, it directed NERC to change or remove language that requires jurisdictional entities to implement 17 requirements in a manner to "identify, assess and correct" deficiencies. FERC said that phrasing was "unduly vague and ambiguous."

FERC also directed NERC to create new reliability standards addressing risks posed by "transient devices" that could contact the bulk power system, such as thumb drives and laptop computers.

FERC's actions accentuate its occasionally uneasy relationship with NERC, although the two entities are required under a law passed by Congress in 2005 to work together to enforce grid reliability rules that law made mandatory for the first time.

Under the law, NERC sets mandatory reliability rules but can delegate certain responsibilities to regional reliability groups, such as the Florida Reliability Coordinating Council and the Northeast Power Coordinating Council. FERC has oversight of NERC's work, including reviewing NERC's development of reliability rules and issuance of penalties for rule violations. FERC at times has pushed NERC to toughen its rules, oversight or penalties, and NERC officials at times appear to have chafed under FERC oversight.

The relationship hit a nadir May 2012 when a FERC staff audit criticized parts of NERC's management, bookkeeping and operational focus. FERC and NERC staff later accused each other of unwillingness to work out the two sides' differences, as is common in FERC audits. Though the two sides began litigating the matter in an unusual paper hearing, they reached a settlement in the matter last January.

FERC Commissioner Cheryl LaFleur acknowledged Thursday that the commission rarely issued remands, but said it was important to do so in this case to protect electric grid reliability.

"Remand...is not something we take very lightly; it is something very infrequently done, but because of the important issues that are raised in the order we sent [the transmission and interconnection reliability standards] back," said LaFleur, who will take over as acting FERC chair Monday upon the planned departure of Wellinghoff, who will begin work in the San Francisco offices of Stoel Rives LLP.

However, in comments to reporters, Wellinghoff was careful to say the remands do not represent a general criticism of NERC's work.

Rather, he described them as "sort of standard actions that are part of our responsibilities...."

Wellinghoff said the remands and required changes to the CIP standards are "ultimately asking that they make some additional clarification to make sure that these orders are more enforceable and in fact work better for those entities that have to comply with [them]."

In fact, NERC declared itself "pleased" with FERC's decision Thursday, emphasizing approval of the CIP standards rather than the two remands.

NERC said it will "review the impacts of [FERC's] directive to remove the 'identify, assess and correct' language from CIP version 5, and will respond to any other issues identified."

As for FERC's remands of the transmission and interconnection reliability standards, NERC said it "will review FERC's comments...and respond to the issues identified."

In a third reliability-related decision Thursday, FERC approved a NERC proposal to retire 34 requirements within 19 existing reliability standards, and to withdraw 41 outstanding FERC directives to revise various NERC reliability standards. FERC agreed the directives were redundant with other efforts or have already been addressed, and that retiring the reliability standards was needeed to streamline obligations imposed by NERC.

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SNL.com
Thursday, November 21, 2013 6:34 PM ET

FERC PROPOSES TO REMAND TO NERC MODIFIED STANDARDS THAT WOULD CREATE 'RELIABILITY GAPS'

By Marcy Crane

FERC on Nov. 21 issued a notice of proposed rulemaking to remand to the North American Electric Reliability Corp. reliability standards that the commission believes would "create reliability gaps" by, among other things, eliminating a requirement obligating transmission operators to plan to operate within all system operating limits.

"For example, if they are not designated as interconnection reliability operating limits, NERC's proposal would exclude from monitoring certain system operating limits within one transmission operator's area that impact another transmission operator's area," Commissioner Cheryl LaFleur noted in a related statement.

During the commission's open monthly meeting Nov. 21, LaFleur stressed that FERC does not take the issuance of reliability standard remands lightly but will do so when necessary. Commissioner Philip Moeller similarly noted that the agency has a responsibility to remand those standards that do not "meet requirements."

In this case, LaFleur said that while NERC proposed the revisions to the transmission operations, or TOP, and interconnection reliability operations and coordination, or IRO, standards at issue in an effort to combine similar requirements and clarify entities' responsibilities, the proposal also "goes further."

"As the order explains, experience, including the 2011 Southwest Blackout, indicates that even system operating limits that are not designated as interconnection reliability operating limits can initiate an outage or contribute to deteriorating conditions," LaFleur said. "In short, we cannot always foresee what operating limits will be critical in an emergency."

NERC on April 16 asked (RM13-14) FERC to approve the establishment of three new TOP standards (TOP-001, TOP-002 and TOP-003) and one new protection and control standard (PRC-001) to replace nine standards it wished to retire. In a concurrent filing (RM13-15), NERC also sought approval of four new IRO standards (IRO-001, IRO-002, IRO-005 and IRO-014) and to retire six additional standards.

In each of those filings, NERC explained that the proposals as a whole "address actions required to prevent instability, uncontrolled separation, or cascading outages." Specifically, NERC said the proposed new TOP standards are aimed at "ensuring that the transmission system is operating within operating limits," while the proposed new IRO standards both "delineate a clean division of responsibilities" between reliability coordinators and transmission operators and "raise the bar on monitoring" those limits.

FERC, however, said in its NOPR that while the petitions contain some improvements over the status quo to the extent that they reduce redundancy and clarify the entity responsible for certain tasks, they also may create reliability gaps.

"[W]e are concerned that NERC has removed critical reliability aspects that are included in the currently-effective standards without adequately addressing these aspects in the proposed standards," FERC said. "One area of concern is that, unlike the currently-effective TOP reliability standards, there is no requirement in the proposed standards for transmission operators to plan and operate within all system operating limits."

Due to the interrelationship between the two sets of standards, FERC decided to remand both in order to give NERC more flexibility to develop modifications that address the commission's concerns. "[C]hanges to the TOP standards might require, in some instances, commensurate changes to the IRO standards," the commission explained.

Finally, FERC proposed to approve revisions (RM13-12) to a standard (TOP-006) aimed at addressing the respective monitoring roles and notification obligations of reliability coordinators, balancing authorities and transmission operators.

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Megawatt Daily
November 22, 2013

FERC-CFTC PACTS TO BE LEFT TO SUCCESSORS: WELLINGHOFF

Outgoing Federal Energy Regulatory Commission Chairman Jon Wellinghoff said Thursday that he and Commodity Futures Trading Commission Chairman Gary Gensler would be leaving long-delayed, congressionally-mandated cooperation agreements to their successors after they failed to make any progress on jurisdictional issues.

"Obviously, [Gensler] and I won't be doing them," said Wellinghoff, shortly after announcing Thursday that he would leave the agency on Sunday.

The Dodd-Frank Wall Street Reform and Consumer Protection Act, signed into law in 2010, required the CFTC and FERC to sign two memorandums of understanding on information-sharing and procedures for applying their regulatory authority by January 2011.

But Wellinghoff and Gensler, who is expected to leave the CFTC by the end of 2013, made little progress and appear no closer to finalizing the agreements than when they initially met to discuss such issues nearly three years ago.

"Commissioner Gensler and I had ongoing discussions, but we just never reached a point that we needed to get to [to] have an agreement on the [agreements]," Wellinghoff said Thursday.

Wellinghoff said that the biggest hurdle between FERC and the CFTC was over the definition of jurisdiction, indicating that Gensler was unwilling to "preserve our level of jurisdiction we believe we needed and we believed was essential to protect the markets."

Wellinghoff said the White House will name Commissioner Cheryl LaFleur as acting FERC chairman. Department of the Treasury official Timothy Massad has been nominated to replace Gensler. Wellinghoff's successor has yet to be nominated.

In an April letter, Democratic Senators Dianne Feinstein of California and Ron Wyden of Oregon, as well as Republican Senator Lisa Murkowski of Alaska, urged the two agencies to avoid disputes over jurisdiction.

The lawmakers also called on the CFTC and FERC to agree to new MOUs "as soon as possible," citing the need for the two to work together in addressing market manipulation and other key goals.

Brian Scheid

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Greenwire

HYDROPOWER: NEWLY APPROVED BIPARTISAN LAWS ALREADY BOOSTING PROJECTS -- FERC

Hannah Northey, E&E reporter

Published: Thursday, November 21, 2013

Federal Energy Regulatory Commission members today praised new laws created as bipartisan legislation that are now boosting the number of small hydropower projects.

"Yes, there are times when people can get along in this city," Commissioner Philip Moeller said at FERC's monthly meeting in Washington, D.C.

There are now 18 applications for small hydropower projects before the commission, 14 in the notice period, Moeller said.

Chairman Jon Wellinghoff said the law "improves efficiency."

President Obama signed in August two bipartisan bills to advance the development of small hydropower projects, the first significant energy legislation of this Congress (Greenwire, Aug. 12).

The Hydropower Regulatory Efficiency Act streamlines FERC's process for permitting all projects that use existing canals, pipelines or other water conduits. It also orders the commission to explore a two-year licensing process for hydropower development at existing nonpowered dams and closed-loop pumped storage projects and to study pumped storage to support intermittent renewable energy sources like wind and solar.

Senate Energy and Natural Resources Chairman Ron Wyden (D-Ore.) and ranking member Lisa Murkowski (R-Alaska) led the charge for S. 545 with 11 co-sponsors.

The Senate bill aligned with H.R. 267, which Rep. Cathy McMorris Rodgers (R-Wash.) unveiled in January and which was passed by the House 433-0 in February.

Also signed into law was Sen. John Barrasso's (R-Wyo.) Bureau of Reclamation Small Conduit Hydropower Development and Rural Jobs Act (S. 306), which is aimed at boosting small hydro projects. It was backed by Republican Sens. Mike Crapo of Idaho, James Risch of Idaho, Mike Enzi of Wyoming and Jeff Flake of Arizona.

Barrasso's measure mirrors Rep. Scott Tipton's (R-Colo.) H.R. 678, which passed the House 416-7, with all "no" votes being cast by Democrats (E&E Daily, April 11).

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SNL.com
Thursday, November 21, 2013 6:46 PM ET

FERC APPROVES NEW SMALL GENERATOR INTERCONNECTION PROCEDURES

By Glen Boshart

With the goal of speeding the process for interconnecting solar and other small power generators to the grid, FERC on Nov. 21 voted to approve a new rule that expands a fast-track process for evaluating such requests.

While the final rule was not immediately available Nov. 21, staff said during the agency's monthly open meeting that it largely reflects an earlier proposed rule, but includes several changes that respond to concerns raised about that proposal expressed in subsequent comments and during a workshop.

The reforms "are driven by market changes … and are intended to ensure that the time and cost to process small generator interconnection requests are just and reasonable and to allow for more efficient interconnection of these resources while maintaining reliability," staff explained.

Much has changed since FERC's interconnection procedures for small generators first were established in 2005, including a dramatic jump in the number of solar and other small generation resources, which has resulted from state initiatives. Moreover, the Solar Energy Industries Association in February 2012 asked FERC to consider revising the 2005 rule, claiming that it was discouraging still further investment in wholesale solar generation.

After FERC held an initial technical conference on the issue in July 2012, the agency moved to formally revise the 2005 rule by issuing a proposed new rule aimed at reducing the time and costs associated with processing the interconnection requests of small generators, such as by expanding a fast-track process for evaluating those requests.

Specifically, FERC proposed to allow interconnection customers to pay $300 to have a transmission provider prepare a pre-application report that would give them a better idea of the most economical site for a new facility.

The proposal also would replace a 2-MW threshold for participation in the fast-track process with one that would be based on individual system and resource characteristics, including interconnection voltage levels, the distance of the interconnection from the substation, and resource capacity, up to a limit of 5 MW.

A third reform would revise the options available to a customer for projects that fail the fast-track screens that identify reliability or safety issues. Under the existing rule, transmission providers need only to discuss what options a customer has for proceeding under such circumstances. However, the proposed rule would require the provider to make minor modifications to its system to accommodate a request if the customer pays for those modifications. A customer also could ask to have a supplemental review performed or to have its interconnection request continue to be evaluated under a study process.

The proposal would leave a 15% screen as part of the supplemental review, but would allow penetration levels to exceed 15% on a case-by-case basis if the transmission provider determines that doing so would not create safety or reliability problems.

Finally, FERC proposed to revise the pro forma facilities study agreement for small generators so that interconnection customers can offer written comments on the upgrades needed for the interconnection, although the transmission provider would continue to make the final decision on required upgrades.

The final rule

FERC has now largely decided to adopt the proposed rule's provisions, but the draft final rule would make some changes to offer more flexibility to providers.

For instance, staff said the draft final rule adopts a default $300 fee for the pre-application report, but allows a transmission provider to propose a different cost-based fee. In such cases, the generator would have to pay the provider's good-faith estimate of the cost to perform the review, and after the review is completed the parties would reconcile any differences between the deposit and actual costs.

With regard to requests for supplement reviews, staff said the final rule says minimum load and other screens should be used to determine whether a resource may be interconnected safely and reliably. The minimum load screen is 100% of daytime minimum load for solar resources and 100% of absolute minimum load for all other resources. However, the final rule allows a transmission provider to estimate minimum load if data is not available, or not perform the minimum load screen at all if it cannot do so.

Staff said the final rule also modifies the definition of small generating facility to specifically include storage devices. However, staff said the order also stresses that states do not have to adopt the final rule's provisions when developing retail small generation interconnection procedures, but said states "may find the rule helpful" in that regard.

Outgoing Chairman Jon Wellinghoff did not participate in the vote to adopt the draft final rule. (RM13-2)

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E&E NewsPM

SOLAR: FERC GREENLIGHTS RULE TO EASE RESTRICTIONS FOR SMALL GENERATORS

Hannah Northey, E&E reporter

Published: Thursday, November 21, 2013

The Federal Energy Regulatory Commission approved a rule today that eases roadblocks for small solar generators trying to connect to the U.S. electric grid, with outgoing FERC Chairman Jon Wellinghoff recusing himself from the decision.

The other commissioners -- two Republicans and two Democrats -- unanimously endorsed a rule that responds directly to a petition the Solar Energy Industries Association (SEIA) submitted to FERC last year proposing to change federal policies that have limited the amount of solar power that can be added to homes in booming regions like California, Hawaii and New Jersey.

FERC's rule will allow certain solar projects to qualify for a fast-tracked interconnection process by eliminating costly and time-consuming studies, and reduce bottlenecks that have cropped up in the quickly expanding industry, Rhone Resch, president and CEO of SEIA, said in a statement. By year's end, the solar industry expects to have 13 gigawatts of cumulative solar electric capacity installed in the United States, he added.

Resch has said FERC's rule could potentially double the amount of solar generation capacity in the fast-track lane, even while ensuring the grid is reliable.

Sunny states are seeing solar panels bloom on rooftops at a record pace, bolstered by falling prices and generous subsidies. Grid operators, in response, have capped the amount of rooftop solar installations.

SEIA had argued that policies FERC laid out in 2005 -- and states adopted -- had become discriminatory and asked the commission to allow small solar generators to quickly connect to the grid if they met certain criteria or passed "screen tests."

FERC's proposed reforms fall in line with much of what SEIA was seeking, including language that would allow generators to ask transmission providers for a study to help them better determine points where they can interconnect to the grid. The generators, however, would be required to pay for the studies, which can cost around $300.

FERC Commissioner Philip Moeller at the agency's monthly meeting in Washington, D.C., today thanked Dan Adamson for bringing the issue to the agency's attention. Adamson, now a staffer for Sen. Ron Wyden (D-Ore.), chairman of the Senate Energy and Natural Resources Committee, was previously SEIA's vice president of regulatory affairs and its counsel, and served as a partner at the law firm Davis Wright Tremaine LLP, representing clients before Congress, FERC and courts (E&ENews PM, Jan. 9).

Wellinghoff recused himself because he served as the general counsel for a Nevada utility in the past -- formerly PowerLight Corp. -- that developed solar projects (Greenwire, Jan. 9).

Separately, FERC released a report today that found companies installed more than 2,500 megawatts of solar power since the beginning of the year. The report also found companies installed more than 6,600 MW of gas, 1,500 MW of coal-fired generation and 1,000 MW of wind since the beginning of the year.

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SNL.com
Thursday, November 21, 2013 5:55 PM ET

FERC FINDS NYISO BUYER-SIDE TEST, WITH CHANGES, CAN APPLY TO MERCHANT TRANSMISSION PROJECT

By Glen Boshart

FERC on Nov. 21 only partially granted a complaint alleging that the New York ISO should not have found that its buyer-side market power mitigation rules apply to merchant transmission provider Hudson Transmission Partners LLC.

The commission agreed with HTP that the NYISO failed to fully support its use of a scaling factor — a method for projecting energy revenues as part of a market power analysis — to HTP's merchant transmission project and should have considered the company's actual cost of capital and not a proxy cost of capital in the mitigation calculation. However, FERC upheld other aspects of the way the NYISO implemented the test.

At the time HTP filed its complaint (EL12-98) in August 2012, the company was still building a 660-MW, direct-current merchant transmission project intended to deliver power from the PJM Interconnection LLC into the NYISO. With an approximate length of 7.5 miles and originating in Ridgefield, N.J., the project runs underground for about 4 miles before going below the Hudson River and then interconnecting with a Manhattan substation in New York City. The developer subsequently completed the project and energized the new line in June.

The dispute began after the NYISO found four separate times from June 2011 through December 2011 that HTP failed a test for being exempted from the ISO's buyer market power mitigation rules, meaning it should therefore be subject to an offer floor.

Crying foul, HTP told FERC that the NYISO's determinations left it unable to sell capacity bilaterally or in the NYISO's monthly auctions because the offer floor calculated by the NYISO was so high that HTP's offers would not clear the market.

HTP said it apparently was the first, and only, transmission facility that had ever been subjected to capacity market mitigation in the NYISO and questioned the reasonableness of applying such mitigation rules to transmission facilities. Even if doing so is reasonable, HTP said the way the rules were applied to its merchant facility was arbitrary and unjustifiable.

In particular, the company claimed that the NYISO tried to adapt its generator-based test to HTP without first seeking FERC's approval. The company also maintained that the NYISO's ad hoc adjustments were not in its

tariff and, in at least one case, violated the tariff and discriminated against merchant transmission facilities and were inconsistent with the NYISO's capacity market design "and sound economic theory."

HTP said its potential losses from the NYISO's determinations were difficult to predict, but the $193 million that it agreed to pay for upgrades to the PJM system will definitely be lost if FERC refused to grant the relief requested.

FERC's order

FERC agreed with HTP that the NYISO failed to implement certain parts of the mitigation test properly. For instance, the commission found the grid operator failed to explain in detail how it calculated the specific scaling factor and how it otherwise supported that methodology. However, the commission also determined that the NYISO can use a properly supported scaling factor to project energy revenues in conducting the analysis.

The agency therefore ordered the NYISO to provide the full details of its scaling methodology and to file a proposal to incorporate that methodology into its tariff. FERC also ordered the NYISO to redo the exemption determination using HTP's actual cost of capital.

However, FERC rejected HTP's attacks on other aspects of the way the NYISO conducted the mitigation test. For instance, it found that the NYISO's use of PJM capacity base residual auction market clearing prices to estimate the price of capacity in PJM that would be sold into the NYISO market "is consistent with the objectives of the mitigation exemption test."

The commission further determined that the NYISO correctly included 2009 and 2010 interconnection class year requests in its mitigation exemption determination for the HTP project and appropriately relied on the data available at the time rather than earlier data.

Finally, the commission rejected HTP's request to receive additional compensation for the reliability benefits its project provides, reasoning that the company failed to show that the project "will actually provide substantial and quantifiable benefits beyond those reflected in the capacity market price."

"A competitive market that is able to meet specified reliability requirements does not allow for separate, cost-based compensation for a reliability (or other) benefit provided by a non-cleared capacity resource, including non-cleared capacity resources that are subject to mitigation," the commission further explained.

The NYISO's application of its market mitigation rules has been under scrutiny several times before. In June 2012, FERC handed several New York City suppliers a partial victory by finding that the NYISO needed to modify its calculation of specific factors used in the mitigation exemption test. Also, in a September 2012 order, FERC directed the NYISO to rerun its buyer-side market power mitigation test for two generating facilities that supply power to New York City.

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Transmission Hub

FERC ISSUING FINAL RULE ON GAS-ELECTRIC SYSTEM DATA SHARING

Rule would allow gas, transmission operators to share confidential data

11/21/2013By Barry Cassell

The Federal Energy Regulatory Commission will be publishing in the Nov. 22 Federal Register its final rule that allows gas pipeline and electric transmission companies to better coordinate their systems at a time when the U.S. is increasingly reliant on often volatile gas supplies for power generation.

The final rule amends the commission's regulations to provide explicit authority to interstate natural gas pipelines and public utilities that own, operate, or control facilities used for the transmission of electricity in interstate commerce to share non-public, operational information with each other for the purpose of promoting reliable service or operational planning on either the public utility's or pipeline's system. The final rule adopts the regulations proposed in the July 18 Notice of Proposed Rulemaking without modification.

"In recent years, reliance on natural gas as a fuel for electric generation has steadily increased," the final rule noted. "This trend is expected to continue into the future, resulting in greater interdependence between the natural gas and electric industries. Several events over the last few years, such as the Southwest Cold Weather Event, demonstrate the crucial interaction between natural gas pipelines and electric transmission systems and the need for robust communication between these industry sectors to ensure that both systems operate safely and effectively for the benefit of their customers."

For example, the North American Electric Reliability Corp. reported in May of this year that over the past decade, natural gas-fired generation rose from 17% to 25% of U.S. power generation and is now the largest fuel source for generation capacity. Gas use is expected to continue to increase in the future, both in absolute terms and as a share of total generation and capacity.

The trend tom gas is in part accelerating due to a continuing wave of closures of coal-fired plants, particularly in the Midcontinent ISO and PJM Interconnection regions, due to stringent new clean-air regulations. ISO New England is particularly reliant on gas-fired generation and is also a region with cold winters, which means gas is heavily used there during the winter for home heating. ISO New England has lost almost all of its coal plants, with the biggest remaining such plant, Brayton Point in Massachusetts, to shut in 2017.

Since February 2012, the commission has requested comment and conducted multiple technical conferences on various aspects of gas-electric interdependence and coordination. In this proceeding, the commission addresses one aspect of gas-electric interdependence and coordination: communication and information-sharing between the natural gas and electric industries.

Among other things, the commission is adopting a No-Conduit Rule to provide additional protections against undue discrimination and ensure that the non-public, operational information shared under the rule remains confidential.

Electric transmission operators are continuously on a real-time basis balancing supply and demand to ensure the system remains in equilibrium. "In contrast, due to the physical characteristics of interstate natural gas pipelines, the pipelines require advance nominations to ensure they have sufficient line pack and storage available to meet scheduled daily load of all their customers, including the gas-fired generators, which may constitute significant load for a pipeline and which generally rely on a just-in-time natural gas supply and pipeline delivery," FERC pointed out. "While pipeline line pack and storage provide some operational flexibility to pipelines to accommodate load swings throughout the day, short term swings in demand by gas-fired electric generators resulting from redispatch by electric transmission operators may be difficult to manage, particularly during times of coincident peak loads on interstate natural gas pipelines and electric transmission systems, such as during unusual cold weather events when end-use customers may rely on both natural gas and electricity."

There were 33 commenters on the draft rule, with 30 of them either supporting it or not opposing it. The 30 included: American Electric Power Service Corp., American Gas Association, American Public Power Association, Boardwalk Pipeline Partners LP, Duke Energy, Edison Electric Institute, Electric Power Supply Association and Electricity Consumers Resource Council.

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Electric

RenewGrid

COALITION CHALLENGES FERC'S DEFENSE OF ORDER 1000 IN FEDERAL COURT

by Renew Grid on November 21, 2013

Along with more than two dozen parties, the Coalition for Fair Transmission Policy (CFTP) has filed two briefs with a federal appellate court that respond to the Federal Energy Regulatory Commission's (FERC) legal

defense of Order 1000, a final rule to reform transmission planning and cost-allocation requirements.

The coalition joined the National Association of Regulatory Utility Commissioners, utilities, trade associations and public power organizations on briefs filed Nov. 15 with the U.S. Court of Appeals for the District of Columbia Circuit.

According to the CFTP, the first brief addresses cost-allocation provisions and asks that key provisions in Order 1000 be reversed.

"FERC lacks the authority to direct utilities to fund transmission developers from whom they do not take service," the brief says. "FERC's view that a utility-customer relationship is unnecessary because the entire electric grid can be treated as 'a single machine,' providing 'one service,' the costs for which can be spread grid-wide, has no precedent."

"FERC's requirement to allocate costs across the interstate grid based on undefined 'benefits' (which do not convey any right to use the facilities) further conflicts with public utilities' rights to set their rates in the first instance under the Federal Power Act (FPA)," the brief adds.

In the second brief on threshold issues, the coalition challenges FERC's assertion that Order 1000 was the last in a series of evolutionary transmission restructuring orders. "The orders constitute a regulatory sea change without grounding in the FPA or the record," the petitioners and supporting intervenors contend.

FERC's orders on regional transmission planning "usurp the role Congress expressly left" to voluntary coordination among utilities and are not based on the required "record of abuse" but on "speculation" that, without its orders, improved planning "may" not occur, according to the brief.

The brief says the commission's interpretation that FPA provisions do not restrict its planning authority "runs afoul of over a half century of precedent."

The CFTP notes that the brief also addresses the effect of Order 1000 on state utility regulators.

"FERC argues that the orders are procedural and that any effects on state decision-making are permissible. To the contrary, FERC's assertions of jurisdiction over transmission development in Order 1000 are not permissible, as they directly interfere with core state regulatory functions created by state law," the brief argues.

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Megawatt Daily
November 22, 2013

PJM PANEL BACKS CAPACITY IMPORT LIMIT PLAN

A proposal to limit the amount of capacity from outside the PJM Interconnection that could clear in the annual capacity auction was endorsed by the PJM Members Committee on Thursday.

The measure included proposed tariff and reliability assurance agreement changes incorporating methodologies approved by the PJM Markets and Reliability Committee on November 15, with one exception.

In previous discussions, PJM staff had advocated for requiring import capacity clearing in the base residual auction to be dedicated to a specific PJM load, but Stu Bresler, PJM vice president for market operations, said this provision would inappropriately discriminate against resources from outside PJM. No resources located inside PJM are required to be dedicated to a specific PJM load in order to clear in the base residual auction, he said.

PJM had advocated setting capacity import limits because transmission limitations could impede the ability of resources from outside PJM to meet reliability needs.

In all, the proposal would allow PJM to limit simultaneous capacity imports to 6,200 MW, but there are specific limits for imports from different external areas, such as 2,300 MW from the Midcontinent Independent System Operator's eastern region and 2,495 MW from the non-PJM portion of the VACAR area.

The next step is for the tariff and reliability assurance agreement change proposals to go to the PJM board and, from there, to be filed at the Federal Energy Regulatory Commission.

PJM does not publicize the dates of its board meetings, but Ray Dotter, PJM strategic communications director, said PJM staff expects to submit the tariff language to FERC this month.

In other business, the Members Committee debated at length various proposals to limit how much of two types of demand response – year-long demand-response and summer-only demand response – can clear in the base residual auction. But none of the three proposals achieved the two-thirds majority required to win the committee's endorsement.

Earlier in the day, the Markets and Reliability Committee endorsed a proposal to enhance the operational capability of demand-response resources. Specifically, it would allow PJM operators to dispatch demand-response resources as either "pre-emergency demand response" or "emergency demand response." Only resources restricted by environmental permitting would qualify as "emergency demand response."

The minimum event duration would fall from two hours to one hour, and all resources would be assigned a lead time of 30, 60 or 120 minutes, based on their physical capabilities, and their strike price offer caps would be stratified accordingly. The 30-minute resource would have a cap of $1,000 plus a penalty factor minus $1. The 60-minute resource would have a cap of $1,000 plus a half a penalty factor. The 120-minute resource would have a cap of $1,100.

The penalty factor refers to the pricing of reserves and is currently $400, Dotter said.

Mark Watson

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Gas/LNG/Oil Pipelines

Reuters

WILLIAM PARTNERS GETS FERC OK FOR TRANSCO PIPELINE EXPANSION

Nov 21 (Reuters) - Williams Partners LP said it received federal approval to expand Transco, the nation's largest natural gas pipeline system, to serve Dominion Resources Inc's new 1,358-megawatt gas power plant in Virginia.

The approval from Federal Energy Regulatory Commission for Transco's $300 million expansion would serve Dominion's unit in Brunswick County and help replace generating capacity from retiring coal-fired plants.

Of the total expanded capacity, more than 90 percent will serve Dominion Virginia Power's new power plant. The rest will serve Piedmont Natural Gas Company's local distribution business in North Carolina.

The Virginia Southside Expansion is part of $2.2 billion of Transco growth projects that Williams Partners plans to bring into service by 2017.

The Transco pipeline is a 10,200 mile-long line that has a current system capacity of about 10.15 million dekatherms per day (dth/d), which is enough natural gas to serve the equivalent of more than 42 million homes.

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Congress

The Hill's E2Wire Blog
November 21, 2013, 12:14 pm

HOUSE VOTES 252-165 TO SPEED UP NATURAL GAS PIPELINE APPROVALS

By Pete Kasperowicz

The House passed legislation on Thursday that would require the Federal Energy Regulatory Commission (FERC) to approve applications for natural gas pipelines within 12 months.

Members passed the Natural Gas Pipeline Permitting Reform Act, H.R. 1900, in a 252-165 vote that saw 26 Democrats support the GOP bill.

The bill is part of what could be the GOP's last major legislative push on energy in 2013. The House passed legislation on Wednesday to speed up applications for drilling on federal land and another bill to block pending federal rules on fracking.

Republicans said the gas pipeline bill is needed because demand for natural gas is rising across the country, but producers are having trouble getting gas to the East Coast. Rep. Ed Whitfield (R-Ky.) said prices in New England could be close to 50 percent higher than the national average because there is not enough pipeline capacity to that region of the country.

"Unfortunately, those living in these and many other states can expect to see higher prices once again this winter, and this is precisely why we are bringing to the floor H.R. 1900," Whitfield said.

The bill's sponsor, Rep. Mike Pompeo (R-Kan.), added that the bill doesn't force FERC to approve pipelines and only requires the agency to make a decision.

"They can say yes to a permit, they can deny a permit, but they can't sit on it," he said. "They have to do their homework; they have to get the job done."

Democrats largely opposed the bill and said that roughly 92 percent of natural gas pipeline applications are already decided within 12 months. Rep. Cathy Castor (D-Fla.) said the GOP would only interrupt what many see as a smooth permitting process.

"Instead of expediting the expansion of natural gas pipelines across the country, it would disrupt FERC's natural gas permitting process, which right now is already getting thousands of miles of pipelines permitted in a timely manner," she said.

Democrats also said the bill wouldn't solve the problem of high natural gas prices on the East Coast. House Energy and Commerce Committee ranking member Henry Waxman (D-Calif.) said supply is tight in New England for reasons that have nothing to do with the application process.

"The pipeline companies haven't been satisfied that there's a sufficient year-round demand ... to justify and finance these pipelines," he said. "Cutting corners on the permitting process isn't going to get additional pipeline capacity built for the Northeast."

The Obama administration has also said it opposes the bill, a factor that means the bill has almost no chance of being taken up it the Senate.

"The bill's requirements could force agencies to make decisions based on incomplete information or information

that may not be available within the stringent deadlines, and to deny applications that otherwise would have been approved, but for lack of sufficient review time," the administration said this week. "For these reasons, the bill may actually delay projects or lead to more project denials, undermining the intent of the legislation."

In addition to requiring FERC to act in 12 months, the bill would require other related agencies to approve on any related permits or approvals within 90 days. If these other agencies miss that deadline, these additional approvals would be deemed as given, allowing the application to move forward.

Before the final vote, the House rejected five Democratic amendments to the bill, from:

— Rep. Paul Tonko (D-N.Y.), requiring natural gas pipeline applications to include information about how the applicant will ensure methane emissions will be minimized. Failed 183-233.

— Castor (D-Fla.), eliminating language requiring a permit to be approved if the deadline were missed. Failed 184-233.

— Rep. Jackie Speier (D-Calif.), allowing the 12-month clock to start after FERC has considered and responded to state or local objections to a pipeline project. Failed 183-236.

— Rep. Sheila Jackson Lee (D-Texas), delays implementation of the bill as long as the sequester is in effect. Failed 175-243.

— Rep. John Dingell (D-Mich.), replaces the bill with a requirement that the Government Accountability Office completes a study on what delays are expected by FERC or other permitting agencies. Failed 175-239.

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Gas Daily
November 22, 2013

PIPELINE PERMITTING BILL PASSES HOUSE WITH SLIM HOPE OF BECOMING LAW

The House of Representatives easily approved Thursday a bill aimed at speeding up natural gas pipeline approval, but the bill faces an unclear future in the Senate and a veto threat from the White House.

HR 1900 passed by a 252-165 vote, with 26 Democrats voting for it and no Republicans voting against it. The bill would require the Federal Energy Regulatory Commission to approve or deny a gas pipeline permit within one year.

The measure — introduced by Representative Mike Pompeo, Republican-Kansas, and backed by the American Gas Association and other industry groups — also would require other agencies to approve or deny federal gas pipeline permits, such as Clean Water Act permits, within 90 days after FERC issues its environmental review of the project.

"This bill ensures that America's revolution in energy production reaches more households and factories across the country, keeping homes warm, factories humming and utility bills low, all the while cutting needless red tape," Pompeo said in a statement.

Don Santa, president and CEO of the Interstate Natural Gas Association of America, which also backed the bill, said FERC's lack of authority over permitting deadlines for other federal and state agencies has caused project delays.

"Providing clear permitting deadline authority will add certainty to the process and encourage timely decision-making," Santa said.

Despite the House victory, there is no companion legislation in the Senate, and Senator Ron Wyden, an Oregon Democrat and chairman of the Energy and Natural Resources Committee, has indicated that he is unwilling to consider a pipeline permitting bill with a hard deadline.

The White House on Tuesday said President Obama will likely veto the bill because it would lead to automatic pipeline approvals within "rigid, unworkable time frames," and lead to permits that may not withstand a court challenge.

"The bill's requirements could force agencies to make decisions based on incomplete information or information that may not be available within the stringent deadlines, and to deny applications that otherwise would have been approved, but for lack of sufficient review time," the White House said. "For these reasons, the bill may actually delay projects or lead to more project denials, undermining the intent of the legislation."

Brian Scheid

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E&E Daily

SENATE: NUCLEAR OPTION 'POISONS THE ATMOSPHERE' -- BUT DOES IT KILL THE LAST STRAINS OF BIPARTISANSHIP?

Elana Schor and Jason Plautz, E&E reporters

Published: Friday, November 22, 2013

Frustrated Senate Democrats' new limits on the filibuster ensure one group of beneficiaries -- presidential nominees -- but also could further hobble the already-slow progress of bipartisan energy legislation through the polarized Congress, lawmakers warned yesterday.

Majority Leader Harry Reid's (D-Nev.) use of the so-called nuclear option, a rules change curbing filibusters of all nominees save for Supreme Court justices, plunged the tradition-bound upper chamber into an uncertain era even as the Capitol emptied for a Thanksgiving recess. Republicans appeared to follow Minority Leader Mitch McConnell's (R-Ky.) lead in not "talking about reprisal," but few saw a smooth path forward.

"I truly believe he has made a terrible mistake, contrary to not only the long-standing goals of the Senate but the traditions of respecting minority rights," Sen. Susan Collins (R-Maine), one of few swing GOP votes remaining for Reid's party to court, said of the majority leader in an interview.

Collins said she hoped the rules change would not hurt the Senate's ability to advance bipartisan bills such as the long-stalled energy efficiency plan authored by Sens. Jeanne Shaheen (D-N.H.) and Rob Portman (R-Ohio). "But I fear it may," she added, "because it poisons the atmosphere."

Sen. John Hoeven (R-N.D.), a conservative who engages with Democrats, offered a more optimistic view. The chamber "has got to find a way to get bipartisan action," he said in an interview, and vehicles such as the Shaheen-Portman energy bill as well as bicameral conference deals on a new farm bill and a water resources authorization bill could prove crucial.

"These are opportunities to come back to some bipartisanship," Hoeven said.

Even before Reid proposed the rules change, which passed yesterday with the support of all but three Democrats and no GOP votes, the efficiency bill's chances of moving forward in the near term appeared dim absent additions to win more Republican votes (E&E Daily, Oct. 28).

While the new filibuster limits do not affect legislation, some in the GOP aired apprehension that Democrats soon would expand the power from nominees to any business that comes before the chamber.

"Just wait -- maybe they'll throw another bomb and it won't just be nominees," one GOP aide said, speaking candidly on condition of anonymity. "We're now the House."

Two Republicans who in the past have staked a reputation on deal-making and working across the aisle drew similar dismayed comparisons between the Senate and the House, where the minority has fewer parliamentary tools at its disposal.

A visibly irritated Sen. John McCain (R-Ariz.) said the take-away from yesterday was that the Senate was now under "simple majority rule."

And Sen. Lindsey Graham (R-S.C.), who worked with Democrats on a failed 2010 climate bill, said the new rules would increase polarization and "make it harder for the institution to operate." He invoked the maxim, popularly attributed to George Washington, that casts the Senate as a "cooling saucer" that allows for more reasoned debate.

"That's been broken," Graham said.

"I just think of the nutty ideas of ours that they stopped and I think of the nutty ideas they had that we stopped," he added. "This really makes the Senate much more like the House, and the partisan group influence on members is going to go through the roof."

Yucca fireworks

Among the most volatile squabbles given new life by the rules change is Yucca Mountain, the long-proposed nuclear waste repository in Reid's home state that the Obama administration scuttled in 2010.

Nevada's GOP junior senator, Dean Heller, lamented a "scary day" for his state if Reid or future leaders of the chamber expand the filibuster restriction from nominees to legislation.

Stopping "Yucca Mountain from moving forward, a policy that is already the law of the land," has required "using every arrow in our quiver," Heller said in a statement. "When you are from a small state, you have to rely on every tool in your toolbox to protect yourself."

Reid spokeswoman Kristen Orthman slammed the statement, echoed anew yesterday by top Department of Energy appropriator Lamar Alexander (R-Tenn.), as "disingenuous and not true" given that the majority leader "has already defunded and ended" Yucca.

"If Senator Heller is so concerned, maybe he should start convincing his Republican colleagues to not turn Nevada into the country's nuclear waste dumping ground," Orthman added via email.

Alexander and Heller played the Yucca card five months ago during a resurgence of speculation that Reid would go "nuclear" (E&E Daily, June 19).

The nominee factor

The first Obama administration appointee to see the upside of the rules change, Patricia Millett, saw cloture invoked in advance of her expected confirmation for a seat on the U.S. Court of Appeals for the District of Columbia Circuit late yesterday on a 55-38 vote. A Republican blockade of Millett and two other nominees for the powerful D.C. Circuit, which evaluates challenges to many federal regulations, had driven Democrats to their long-considered "nuclear" brink (Greenwire, Nov. 21).

Not long after the Millett vote, the White House announced a new nominee to be chief financial officer at NASA. That post's current occupant, Elizabeth Robinson, found her ascension to an Energy undersecretary position blocked by a hold from Sen. David Vitter (R-La.) last month (E&E Daily, Oct. 22).

Ostensibly, Robinson's DOE nomination can now proceed without the threat of a filibuster.

It was, in part, obstruction of U.S. EPA nominees that helped grease the wheel for the swift turnaround. Administrator Gina McCarthy was one of the nominees at the center of a weeklong battle in July that brought the Senate to the brink of changing the rules.

A full meeting in the Old Senate Chamber and a deal that sent back two National Labor Relations Board nominees averted the nuclear option that time but also began to turn some longtime Democratic opponents.

Environment and Public Works Chairwoman Barbara Boxer (D-Calif.), who previously had opposed filibuster reform, said the 136-day delay in McCarthy's nomination was one of the factors that led her to change her mind. Also a factor, she told reporters, was the years-long holdup for Ken Kopocis, nominated in 2011 to head EPA's water office.

"Justice delayed is justice denied," Boxer said. "We have one nominee who would be in charge of clean water and everyone says they think he's great and terrific, but they won't let him have a vote."

Kopocis, who has been serving EPA in an advisory capacity, cleared the EPW panel in July but has not been confirmed by the full Senate. It's expected that his nomination could move more swiftly under the new rules, despite Republican concerns about how the Obama administration is dealing with Clean Water Act issues.

Janet McCabe, who is acting as EPA's air chief and is widely expected to be named for the permanent post, could also see a nomination soon.

Bright spots?

Progress at the Senate Energy and Natural Resources Committee, where Chairman Ron Wyden (D-Ore.) and ranking member Lisa Murkowski (R-Alaska) have cleared 70 bills -- though only 11 have been signed into law -- is unlikely to slow, Murkowski spokesman Robert Dillon said in an interview.

Elsewhere on the Energy panel, one Democrat whose electoral peril and affinity for her home-state oil industry had vexed environmentalists yesterday sounded emboldened by the rules change.

Republicans "who think they own this floor" brought the filibuster limits on themselves, Sen. Mary Landrieu of Louisiana said in an interview. "The reason I voted for this is that I want to get back to fixing flood insurance" as well as approving the Keystone XL pipeline, she added.

Another oil-patch Democrat whom Republicans are targeting in 2014, Sen. Mark Begich of Alaska, predicted that "there will be a moment where everyone will get over it." As for Republicans' doomsday warnings, he added, "they say that today."

Even before senators left the building, in fact, proof emerged that they could still set aside partisan differences and agree on some things: Sens. Tom Carper (D-Del.) and John Boozman (R-Ark.) joined members of the Senate Recycling Caucus on a joint resolution endorsing the reuse of waste.

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E&E NewsPM

APPROPRIATIONS: STOPGAP CR A POSSIBILITY WITHOUT BUDGET AGREEMENT -- ROGERS

Elana Schor, E&E reporter

Published: Thursday, November 21, 2013

House Appropriations Chairman Hal Rogers (R-Ky.) today raised the prospect of a stopgap continuing resolution in mid-January that could give leaders in both chambers a chance to set new funding levels for discretionary agencies such as U.S. EPA and the Energy Department.

Much depends, however, on whether budget negotiators who set to work as a result of last month's deal to end a 16-day government shutdown can reach an agreement on new spending levels by their Dec. 13 deadline. If those talks do not yield spending limits for EPA, DOE and other discretionary agencies, Rogers warned, lawmakers risk reaching another paralytic fiscal impasse.

"If we don't get" a discretionary road map that reaches to fiscal 2015 from the budget talks, Rogers said of himself and his Senate counterpart, Appropriations Chairwoman Barbara Mikulski (D-Md.), "that means we're back in this business next year."

The current CR that keeps federal agencies funded is set to expire Jan. 15, according to the shutdown-ending pact that Congress approved last month (E&E Daily, Oct. 17).

That date also promises to bring a new round of across-the-board spending cuts in line with the terms of 2011's Budget Control Act, though Rogers suggested that relief from the so-called sequester could be a part of any spending plan that results from successful budget negotiations -- a process that could begin with the short-term, perhaps three-month-long, CR that the Kentuckian referenced today.

House Speaker John Boehner (R-Ohio) aligned with Rogers this week in describing himself as "hopeful" that budget conference leaders in both chambers can provide appropriators with discretionary estimates before Dec. 13 (Greenwire, Nov. 19).

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International/Misc.

Gas Daily
November 22, 2013

EXPORTS TO LIFT CANADA GAS OUTPUT POST-2018: NEB

Canada's natural gas production will continue to decline until 2018, when it begins a slow, steady recovery through 2035, the National Energy Board said Thursday in its long-range energy forecast.

Canada's crude oil production, meanwhile, will jump 75% to 5.8 million b/d over the next 22 years, with the Alberta oil sands accounting for 86% of that, the report said.

Gaetan Caron, CEO of the regulatory agency, said Canada's energy resources are "more than enough" to meet its domestic demand, leaving "significant amounts" available for export — although growth in export markets and access to them remain "key uncertainties."

The NEB predicted that Canadian gas output, which has been on a downward trend since 2008, will slide from 13.2 Bcf/d this year to 11.2 Bcf/d in 2018, then feed off a price recovery and new liquefied natural gas export facilities to reach 17.4 Bcf/d in 2035.

The agency said the Henry Hub gas price used for its mid-range forecast is expected to reach $6.20/MMBtu (in 2012 dollars) in 2035 from an expected $3.90/MMBtu average in 2013.

The NEB estimated that Canada has 1,093 Tcf of marketable gas, with tight gas accounting for more than half of that — including a combined 449 Tcf on the British Columbia and Alberta sides of the Montney Shale play.

The Montney formation in British Columbia is expected to contribute 6.1 Bcf/d in 2035, quadrupling from 2013 levels, and 1.6 Bcf/d in the Alberta sector in 2035, a five-fold increase.

Frontier resources in northern Canada and the offshore contain an estimated 116 Tcf of gas, with 66% in the Mackenzie Delta-Beaufort area and the remainder in the Arctic Islands, while the offshore East Coast has an estimated 91 Tcf and offshore British Columbia has 17 Tcf.

The NEB said it assumes 1 Bcf/d of gas will be exported as LNG from Canada in 2019, growing to 2 Bcf/d in 2021 and 3 Bcf/d in 2023 as several new export terminals are built on the country's west coast. Driven largely by that prospect, the number of gas wells drilled will rise to 3,200 in 2035 from just 1,100 in 2012, it said.

Net gas available for export in 2035 is estimated at 4.5 Bcf/d in the NEB's mid-range case but could go as high as 10.7 Bcf/d.

The study said the timing and volume of LNG exports are "key uncertainties given the impact that this could have on exploration, production, prices and infrastructure development."

It said potential labor, service or equipment shortages could impact the pace of gas drilling, "especially over the next decade with the possible pressure to ramp up production for LNG."

- Gary Park

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From: MediaDL
Sent: Monday, July 01, 2013 8:32 AM
To: NewsDL
Subject: July 1 newsclips

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INTERNATIONAL/MISC. 37

Top Stories

Inside FERC
July 1, 2013

FORMER COLORADO REGULATOR BINZ TAPPED BY WHITE HOUSE AS NEXT FERC CHAIRMAN

As expected, President Obama on Thursday nominated former Colorado regulator Ron Binz to replace Jon Wellinghoff on the commission. Upon confirmation, Binz would be named chairman and receive a five-year term running through June 2018.

Wellinghoff's term officially expired Sunday (June 30), but he could stay on under a grace period until he is replaced or the current session of Congress ends in the fall, whichever comes first.

Late last month, Wellinghoff notified the White House that he would step down once a replacement is confirmed and sworn in (*IF*, 3 June, 1). In the meantime, he has continued his duties as chairman, including voting on agenda items. He has recused himself from a few orders, presumably due to potential conflicts of interest involving a prospective employer.

Binz on Friday declined to comment on the White House announcement. Through commission spokeswoman Mary O'Driscoll, Wellinghoff also declined comment.

It could take weeks, if not months, for Binz to make his way through the Senate. Formal nomination papers will be sent to the Energy and Natural Resources Committee, which then has to conduct a confirmation hearing and committee vote. According to committee spokesman Keith Chu, as of late Friday the papers had not yet been received and a hearing had not been scheduled.

"I look forward to considering Mr. Binz's nomination," said committee Chairman Ron Wyden, Democrat-Oregon, in a statement. "He has had a notable career in the energy field," Wyden continued, pointing to Binz's service on the Colorado Public Utilities Commission.

"I am eager to hear his views on a wide range of FERC issues, especially how FERC will take into account the unique characteristics of the Northwest electricity system when taking regulatory action," he added.

Senator Lisa Murkowski of Alaska, the committee's ranking member, was far more reserved in her reaction. "FERC's decisions have a direct effect on whether our nation's energy is abundant, affordable and secure," she said in a statement. "During the confirmation process, I will carefully consider the nominee's qualifications and fitness to serve — not only as a commissioner, but also as chair."

The news release went on to say that Murkowski "strongly believes that each of the commissioners, and especially the chair, must have and maintain a judicial temperament and must demonstrate a record for balance and a scrupulous regard for the law and the rules." It also noted that "in recent decades it has been rare to elevate the newest member of the commission directly to chairman."

Assuming the Binz nomination is cleared by the committee and sent to the Senate floor, it may well run into some rough waters at that point. Such nominations frequently are delayed due to political wrangling among senators, often over matters that have nothing to do with the nominee.

With the Senate heading into the summer season, during which days in session tend to be limited, the prospects for prompt consideration and confirmation of Binz are not strong, sources observed.

Based on his public remarks and track record as a state regulatory, consumer advocate and consultant, Binz shares much in common ideologically with Wellinghoff. He is considered a strong advocate of energy efficiency, renewable energy, demand response and innovative utility regulation.

A Democrat, Binz chaired the Colorado PUC from January 2007 to April 2011, during which time he was an active member of the National Association of Regulatory Utility Commissioners. Among other things, he chaired NARUC's task force on climate policy in 2010.

Prior to that, he was an energy and telecommunications consultant, served as president of the Competition Policy Institute and directed the Colorado Office of Consumer Counsel. Wellinghoff also served as a consumer counsel, in his native state of Nevada.

Since leaving the PUC, Binz has served as a principal in Public Policy Consulting, specializing in energy and telecommunications economics and policy issues. He also is a senior policy adviser for the Center for the New Energy Economy at Colorado State University, according to his biography.

He received a bachelor's degree in philosophy from St. Louis University and a masters in economics from the University of Colorado.

During a wide-ranging March 21 panel discussion sponsored by The Edison Foundation, Binz made clear that he was an avid supporter of various renewable energy technologies. And he predicted that these resources would quickly make additional inroads into the US energy mix.

"The pace could be very rapid," he said, adding that it all "depends on our decision as a society on whether we're going to reduce greenhouse gas emissions from the power sector. . . . I'm relatively hopeful we will make progress on that."

He went on to express his feeling that "we can turn the corner on this clean energy transition more rapidly than many people think."

Binz also pronounced himself a strong advocate of carbon capture and sequestration, adding that he saw continued progress on that technology as a key to the promise of gas-fired power generation.

While natural gas has made great strides recently in replacing coal as a generation fuel, Binz sees a "dead end" looming in the next 20 years or so unless carbon capture can be added to the mix. "We have to do better on carbon than even natural gas will let us do," he said at the event.

With progress being made on renewable energy technologies such as residential and utility-scale solar, and on demand response, Binz suggested that the traditional cost-recovery and rate models for electric utilities would have to evolve to accommodate the changing supply profile.

"The way in which utilities are compensated . . . has got to change, absolutely," he said during a discussion of new market, technology and supply dynamics. "I'd prefer a metric for the utility that measures the outputs, services that customers get, as opposed to kilowatt hours. It would be a revenue cap, if you want to put it in those terms, instead of a rate of return cap. And it would be pricing which would be independent of the volumes. I think that's where we're headed."

He went on to assert that "we are all coming around to the consensus that a new utility business model is absolutely required, and a predicate for that will be a regulatory environment in which the utility can develop that model."

Binz pronounced himself "pro-competitive, where that works." That said, "we're going to have to have a network. . . . It will be necessary to keep all the pieces talking to each other, working economically and efficiently. That's a must-have."

He concluded that "it's time to restructure the bargain that regulators and utilities are operating under, . . . one that looks forward to these immense challenges that technology is bringing to the industry."

One thing Binz may or may not be looking forward to is discussion during the confirmation process of a few bumps in the road he experienced while chairman of the PUC.

In Colorado, seven state lawmakers in October 2010 asked then-Governor Bill Ritter to remove Binz as chairman because of his role in shaping legislation that lead Xcel Energy to shut some coal-fired plants in the Denver area. The Colorado Mining Association and others said Binz and Commissioner Matt Baker were wrong to help draft Colorado's Clean Air-Clean Jobs Act.

Binz and Baker said their work with the Legislature was routine.

Binz also was called before the Colorado Independent Ethics Commission to answer a complaint about expenses related to a May 2010 speaking engagement in Houston.

According to the commission's findings, travel expenses for Binz totaling $1,073 were paid for by the conference sponsor, Bentek Energy. At the time Bentek was an independent company; it has since been acquired by Platts.

In its December 7, 2010, ruling, the ethics commission concluded that Binz had violated a newly adopted provision of state ethics rules and should have sought an advisory opinion from the commission prior to accepting reimbursement for the travel expenses.

It pointed out, however, that such expenses were routinely covered for other speakers and that Binz "did not break the public trust for private gain" because he "did not personally benefit from the travel paid for by Bentek." Given that, "no penalty is warranted," said the commission.

Reaction to the Binz nomination poured in Friday from various sources.

Former FERC chairman Joseph Kelliher, now an executive vice president with NextEra Energy, called Binz "an excellent choice." He is "not just an experienced regulator, but an experienced chairman," said Kelliher.

While at the Colorado commission, "Ron took a very non-partisan approach," he continued, saying the nominee has a "very nice combination" of characteristics that will serve him well at FERC.

"You want a little bit of vision at FERC, but also a respect for process and the law. Every agency has limited powers. . . . Ron respects that, but he has a vision of where the industry is moving to, and FERC has role in that process."

Asked if he had any advice for Binz, Kelliher allowed that "it's important to note that the chairman is first among equals, not a single administrator. I think Ron understands that from the state level."

He went on to assert that "FERC can accomplish a lot, as long as you don't try to accomplish too much." A chairman "can have a discretionary agenda," but if too many resources are devoted to that agenda, "it can hurt the ability of the agency to do its routine business," Kelliher said, adding that Binz ran a very efficient operation while at the helm of the Colorado PUC.

FERC is "often seen as imposing change, but really it reacts" to what's going on in the industries and markets. With a "thoughtful" approach, a FERC chairman can "make whatever is happening in the industry smoother," said Kelliher.

Lola Spradley, former Republican speaker of the Colorado House of Representatives, related that "during my years as speaker, . . . there were times I called on the Public Utilities Commission to be involved in policy issues and legislation so that the public interest was served. As chair of the PUC, Ron's expertise and leadership proved critical to advance a balanced approach in Colorado. He will be an excellent addition to FERC."

Ben Fowke, chairman, president and CEO of Xcel Energy, called Binz "a strong choice in this time of change for the utility industry. His understanding of the regulatory process makes him uniquely qualified to address the diverse set of issues facing utilities in the US, from grid modernization to carbon regulation."

At the PUC, Binz "demonstrated his leadership with foresight and a willingness to evolve regulatory compacts to deliver pragmatic solutions. His broad level of experience will be an asset to addressing these industry issues, and we are looking forward to working with him in this new position," Fowke added.

Binz "served NARUC well" during his tenure on the PUC, said NARUC President Philip Jones of Washington. As a former state regulator, "he knows how the decisions made in Washington impact ratepayers across the country. A strong federal-state partnership is essential as our nation confronts the numerous challenges ahead, and we are confident Ron, if confirmed, will maintain such a dialogue."

Colette Honorable, chairman of the Arkansas Public Service Commission, was considered a strong candidate for Wellinghoff's seat. On Friday, she congratulated Binz and endorsed his qualifications for the job.

"With all the issues pending before FERC — from transmission planning to gas and electricity interdependencies — the agency has a full plate. State and federal regulators share the same goal: assuring the safe and reliable delivery of essential utility services. Ron is well-versed in these issues. I look forward to working with him when and if he is confirmed," she said.

Commissioner David Boyd of the Minnesota Public Utilities Commission chairs NARUC's electricity committee, and he stressed the importance of having a strong state regulatory perspective at FERC, thanking Obama "for appointing another former state regulator to the commission."

If confirmed, Binz will join Commissioners John Norris and Tony Clark as former state regulators. "As all three can attest, electricity issues — even at the wholesale level — effect all Americans across the board. This is why having a strong state presence at FERC is so important," said Boyd.

Ralph Izzo, PSEG's chairman, CEO and president, echoed others in noting that "the electric industry is experiencing rapid change and technological advances," adding that Binz "is a strong and timely choice to lead FERC."

The nominee "has both the experience and intellect to hit the ground running and ensure thoughtful consideration of emerging opportunities. In Colorado, he showed a willingness to work with diverse groups and elected officials of both parties to develop and implement commonsense legislation," said Izzo.

With five commissioners, FERC is chaired by a member of the president's political party. Other Democrats currently seated are Norris and Commissioner Cheryl LaFleur, whose term is the next to expire on June 30, 2014. Clark and Commissioner Philip Moeller are Republicans.

At one time, Norris was considered a candidate to take up the gavel after Wellinghoff.

Chris Newkumet

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SNL.com
Friday, June 28, 2013 6:15 PM ET

IN WAKE OF BINZ NOMINATION, SOME QUESTION WHAT KIND OF FERC CHAIRMAN HE WOULD BE

By Esther Whieldon

President Barack Obama has nominated Ronald Binz, a strong proponent of renewable energy, to be the next chairman of FERC. But questions remain as to what kind of chairman he will be if confirmed.

Binz will take the seat now held by FERC Chairman Jon Wellinghoff, who has tendered his resignation. Wellinghoff also has taken steps to promote renewable energy and other environmentally friendly technologies such as demand response and energy efficiency.

Binz, a former chairman of the Colorado Public Utilities Commission, has most recently worked as an energy consultant. A number of documents posted on his consulting website indicate much of his focus has been on the fact that utilities are facing challenges to their business models.

Lisa Wood, the executive director of IEE, an institute of The Edison Foundation, said she has known Binz for a number of years as a state regulator and policy consultant and in his role on IEE's advisory committee. "He's very much a forward thinker," she said.

"His work is basically pointing out the increasing uncertainties in the electric power sector and how that gets translated into a regulatory paradigm and a business model for the electric industry," Wood said. Binz has "been working on that for the last couple of years ... and a lot of people are thinking about that issue," she said in a June 28 interview.

It also appears that Binz has an eye on how technologies are transforming utilities and what that means for regulatory models.

Binz sees technology as driving many changes

Speaking at an Edison Foundation/IEE Powering the People event in Washington, D.C., on March 21, Binz said it is "time that the Internet came to the electric power industry, there is no other way of saying it."

"What we are now on the verge of is a system that will be as transformed as the media — as newspaper delivery, as movie delivery, as music delivery, as communications — have been by the Internet," Binz said.

"Usually, the examples that are given sound pretty cheesy: People will be able to control the refrigerator while driving their electric car. That's kind of hard to relate to. But if we went back 25 years and I told you ... that you'd be using your telephone to send text messages to your grandkids, you wouldn't have had any idea what I was talking about. And it wouldn't sound like a market, it wouldn't sound very interesting."

Similarly, it is hard to say today what applications the electricity industry will have in the future, he said. "We're going to have a fabric, a network in which all devices are visible to others, talk to each other [and] communicate prices all ... in a very seamless way and we can't really even imagine that yet."

"We're still very used to a pretty traditional electric system," he said. "I don't believe our regulatory and our administrative structures are ready for this. ... I've done a lot of work in this area. It's usually called a 'new utility business model,' but I think it needs to be called 'new regulatory model,' because that's where it's going to start."

"Binz's views on transmission, risks and returns, and a 'legislative' approach for regulators may suggest that a more activist FERC could materialize under his leadership," Christi Tezak, ClearView Energy Partners LLC managing director, said in a June 28 report. "What's not yet clear is what Binz's priorities at the FERC will be and how he plans to achieve them."

Tezak pointed to an April 2012 Ceres report of which Binz was the lead author that focused on how state regulatory policies can recognize and address the risk involved in utilities' resource planning.

During his tenure at the Colorado commission, "Binz was criticized for his role in actively 'negotiating' the law that provided incentives to Xcel Energy Inc. to close coal-fired capacity," Tezak said. "The Ceres report advocates that state regulators operate in 'legislative mode' as opposed to a more reactive 'judicial mode.'"

The report said that "today's electricity industry presents challenges that traditional electricity regulation did not anticipate and cannot fully address. Similarly, the constraints and opportunities for electric utilities going forward are very different than they were a century ago, when the traditional (and still predominant) utility business model emerged," it said.

"Regulators must recognize the incentives and biases that attend traditional regulation, and should review and reform their approaches to resource planning, ratemaking and utility cost recovery accordingly," the report said.

For their part, utilities "must endorse regulatory efforts to minimize investment risks on behalf of consumers and utility shareholders. This means promoting an inclusive and transparent planning process, diversifying resource portfolios, supporting forward-looking regulatory policies, continually reevaluating their strategies and shaking off 'we've always done it that way' thinking," the report said.

In an October 2012 Western Electricity Coordinating Council resource planners' forum, Binz pointed to a report that found utilities would invest about $2 trillion by 2030 in transmission, generation and other infrastructure. The key question for utilities and their regulators is: "How do we ensure that $2 trillion is spent wisely?" Binz said in the presentation.

Binz's state, policy experience

Binz chaired the National Association of Regulatory Utility Commissioners' Task Force on Climate Policy and was a member of NARUC's Energy Resources and the Environment Committee and the International Relations Committee.

According to the website for his consulting practice, Public Policy Consulting, Binz is a member of the Harvard Electricity Policy Group, the Keystone Energy Board and previously served on the advisory council to the Electric Power Research Institute.

Public Policy Consulting specializes in policy and regulatory issues in the telecommunications and energy industries. Binz's clients included state agencies, business associations, consumer organizations, renewable energy advocates and telecommunications carriers.

Binz also served from 1996 to 2003 as president of the Competition Policy Institute, based in Washington, D.C. "CPI was a non-profit organization dedicated to bringing competition to telecommunications and energy markets in ways that benefit consumers," the website says.

Binz also has background as a state utility consumer advocate and for a time served as president of the National Association of State Utility Consumer Advocates.

Confirmation hurdles ahead

Securing the support of even a handful of Republican senators may prove a challenge for Binz, who has backed policies controversial in Washington and run afoul of ethics watchdogs.

As chairman of the Colorado PUC from 2007 until 2011, he played a lead role in implementing Democratic Gov. Bill Ritter's climate change plan. Congressional Republicans and fossil fuel interests have vowed to fight a similar climate push announced June 25 by the president.

Another potential hurdle is a finding by the Colorado Independent Ethics Commission that Binz violated state law in 2010 when he accepted airfare to speak at an event in Houston from consultant and energy data company BENTEK Energy LLC.

And if history is an indicator, Binz may find it hard to get through the confirmation process even in a Democrat-controlled Senate unless the president can grease the skids by pairing Binz with a Republican nominee for another agency. The terms of Republican commissioners Philip Moeller and Tony Clark do not expire until the end of June 2015 and 2016, respectively.

Some prior FERC nominations have faced major delays in the Senate.

For example, the Senate never acted when President George W. Bush first nominated Joseph Kelliher to the commission in May 2002 because Democrats wanted his nomination to be paired with that of a prospective Democratic commissioner. Kelliher's nomination was sent to the Senate a second time in January 2003 and, after Bush many months later nominated Democrat Suedeen Kelly to fill another open commission seat, both nominees were sworn in as FERC commissioners in November 2003.

Wood is confident Binz will be approved by the Senate. "I would find it hard to find somebody who has better problem-solving skills, a more thorough knowledge of the industry and who has worked across this industry with all sides — consumer advocates, regulators, utilities and other stakeholders," she said.

Praise from supporters, state regulators

Praise for the nomination came from a number of groups and officials, including WIRES; former Republican Speaker of the Colorado House of Representatives Lola Spradley; Xcel Energy Inc. Chairman, President and CEO Ben Fowke; Colorado Common Cause Executive Director Elena Nunez; and the NARUC.

"Ron served NARUC well during his tenure on the Colorado Public Utilities Commission," NARUC President Philip Jones of Washington said in a statement. "As a former state regulator, he knows how the decisions made in Washington impact ratepayers across the country. A strong federal-state partnership is essential as our nation confronts the numerous challenges ahead, and we are confident Ron, if confirmed, will maintain such a dialogue."

Colette Honorable of Arkansas, who had been rumored to have been on the short list for a FERC chairmanship, also issued a statement through the NARUC.

"I worked with Ron for several years when he was a member of NARUC," she said. "With all the issues pending before FERC — from transmission planning to gas and electricity interdependencies — the agency has a full plate. State and federal regulators share the same goal: assuring the safe and reliable delivery of essential utility services. Ron is well-versed in these issues. I look forward to working with him when and if he is confirmed."

Binz "is a proven leader who recognizes the need for diversity in the U.S. electricity supply and understands our country needs smart policies to modernize the grid to match up with today's changing energy mix," NextEra Energy Inc. President and CEO James Robo said in a statement.

Binz on June 28 declined to comment.

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SNL.com
Friday, June 28, 2013 5:31 PM ET

GAS INDUSTRY WATCHES POSSIBLE WELLINGHOFF REPLACEMENT AT FERC

By Sean Sullivan

The natural gas industry is trying to learn more about President Barack Obama's pick to replace Jon Wellinghoff as FERC chairman.

Late on June 27, Obama nominated Ronald Binz as a FERC commissioner. Binz was chairman of the Colorado Public Utilities Commission from 2007 until 2011, but he remains a bit of a mystery to national natural gas organizations that mostly operate at the federal level. His confirmation is not assured. The Senate is partisan, and Binz is not paired with a Republican nominee as is often the case. Reports have said securing even limited support among Republican senators may prove a challenge for Binz, a proponent of renewable energy who has supported climate policies controversial with industry and with Republicans.

Cathy Landry, communications director for the Interstate Natural Gas Association of America, said her association is ready to work with Binz on gas infrastructure projects. "We look forward to working with Commissioner Binz, if confirmed, especially in light of the president's recognition of the importance of natural gas and the pivotal role of FERC on natural gas siting issues," she said June 28.

Dave Schryver, executive vice president of the American Public Gas Association, said the APGA has just started a review of Binz's record and his positions on energy issues. Schryver put reform of Natural Gas Act Section 5 on his list of things he hopes Binz will address.

"It is our hope that, given his background in the Colorado Office of Consumer Counsel, he will recognize the inherent unfairness in the manner in which natural gas customers versus electric customers are treated when it comes to the ability of FERC to protect those consumers from overcollections," Schryver said June 28. "Every FERC Commissioner, including former Chairman [Joseph] Kelliher and current Chairman Wellinghoff, has supported reform of Section 5 of the Natural Gas Act to protect consumers from pipeline overcharges which, on average, amount to over $700 million a year."

If confirmed by the Senate, Binz would take the seat now held by Wellinghoff, who has tendered his resignation. As chairman of the Colorado Public Utilities Commission, Binz played a lead role in implementing Democratic Gov. Bill Ritter's climate change plan. Congressional Republicans and certain fossil fuel organizations were displeased with a similar climate effort announced June 25 by the president.

Look who's leading Republican push...

Arkansas Culture and Characters Arkansas native Ron Binz nominated to the Federal Energy Regulatory Commission

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Arktimes.com

Posted by Max Brantley on Sun, Jun 30, 2013 at 10:01 AM

RON BINZ: ARKANSAS NATIVE IS FERC NOMINEE.

A friend notes an Arkansas angle in President Obama's nomination this week of Ron Binz, former chairman of the Colorado Public Utilities Commission, to the important Federal Energy Regulatory Commission. (Remember Grand Gulf?)

Binz is an Arkansas native and 1967 graduate of Catholic High School in Little Rock. He has degrees from St. Louis University and the University of Colorado.

He is current principal for Public Policy Consulting and a senior policy advisor with the Center for New Energy Economy. He served 11 years as consumer utility advocate in Colorado. Full bio here.

Said the Washington Post in announcing the appointment and the expectation that Binz could rise to chairmanship of FERC:

The selection of Binz pleased proponents of wind, solar and other renewable technologies, though it could spark opposition from some Republicans and the coal industry.

Alaska Sen. Lisa Murkowski, the top Republican on the Energy and Natural Resources Committee, issued a statement Thursday night saying she would carefully scrutinize the nomination.

“FERC’s decisions have a direct effect on whether our nation’s energy is abundant, affordable, and secure,” she said. “During the confirmation process, I will carefully consider the nominee’s qualifications and fitness to serve — not only as Commissioner, but also as Chair.”

A friend who follows utility regulation mentions that Arkansas PSC Chair Colette Honorable also had been mentioned as a potential Obama nominee for FERC. She's soon to take office as president of the National Association of Regulatory Utility Commissioners. Who knows? She might still be a candidate for a future opening. Counting Binz, three Arkansans will have served on FERC, including Don Smith and Bill Massey.

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Electric

Megawatt Daily
July 1, 2013

FERC APPROVES WESTERN IMBALANCE MARKET DEAL

California market participants concerned about the cost of a western energy imbalance market failed to prove that the market implementation fee agreed to by the California Independent System Operator and PacifiCorp is not just and reasonable, the Federal Energy Regulatory Commission said Friday.

Under the EIM agreement, announced by PacifiCorp and Cal-ISO in February and filed with FERC in April, the ISO calculated a $2.1 million market implementation fee based on PacifiCorp's share of the California load.

Southern California Edison, Pacific Gas and Electric and a coalition of six California cities urged FERC to protect market particpants from any costs above the $2.1 million.

But FERC noted that the ISO has said market participants would incur any additional costs "incrementally if and when the imbalance energy activity from additional balancing authority areas" outside PacifiCorp's footprint "is incorporated into the market."

Nothing "in the implementation agreement prejudges or predetermines any market design issues," FERC said, adding that "the ultimate design of the expanded energy imbalance market will be determined through a stakeholder process."

The details of the EIM, expected to launch in October 2014, will have to be approved by FERC under Federal Power Act Section 205, the commission said (Docket No. ER13-1372).

A consultant to PacifCorp and the ISO has estimated the benefits of an expanded EIM to be as high as $129 million annually.

An EIM, the subject of a long-standing western debate pitting advocates of ISO-type markets against more traditional bilateral market proponents, allows changes in supply and demand in one operating area to be netted out with opposite changes in other operating areas at frequent intervals.

Martin Coyne

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Megawatt Daily
July 1, 2013

WAPA AND OTHERS LEAN TOWARD JOINING SPP

The Western Area Power Administration, Basin Electric Power Cooperative and Heartland Consumers Power District are leaning toward joining the Southwest Power Pool, according to a Basin Electric filing with the Minnesota Public Utilities Commission.

The three power providers have been discussing the possibility since late 2011 of joining either the Midcontinent Independent System Operator or SPP to increase options for buying and selling power. WAPA, Basin Electric and Heartland own about 9,200 miles of high-voltage transmission that makes up what they call the Integrated System, which crosses parts of six upper Great Plains states.

In April, the Basin Electric board gave the cooperative's management authorization to support WAPA "in their federal process to join [SPP] and to negotiate terms, and conditions of joining with SPP as a transmission-owning member," Basin Electric said in Thursday's integrated resource plan filed with the Minnesota PUC.

Basin Electric's board would need to approve any final decision to join SPP, the cooperative said, noting that a formal decision to join the ISO has not been made. Basin Electric has load in the MISO and SPP regions.

"It is very early in the process," Randy Wilkerson, a WAPA spokesman, said Friday. However, WAPA expects to issue an ISO-related proposal this summer and begin a public review process, he said.

WAPA has been looking at ways to improve its access to markets since the late 1990s, according to Wilkerson. "We have been studying the issue and we do have issues with access to markets ... that sometime impacted our ability to deliver contracted obligations," he said.

Basin Electric, based in Bismarck, North Dakota, expects its member load to grow by about 1,600 MW between 2012 and 2025, with more than 1,200 MW of the expected load growth related to oil development in the Williston Basin area of North Dakota and Montana.

The cooperative expects its load to grow by roughly 4.1% a year on average, with summer load increasing from about 2,650 MW this year to 4,360 MW in 2025 and winter demand climbing from 2,870 MW to 4,415 MW during the same period. Basin Electric anticipates its summer supply shortfall to grow to 1,360 MW in 2025 from 70 MW in 2017.

In response, Basin Electric is developing two 135-MW natural gas-fired peaking facilities near Williston and Watford City, North Dakota. The Williston plant is expected to operating in 2014, while the Watford City plant is slated to be online in 2015.

Also, through a solicitation last year, Basin Electric signed several short-term contracts totaling 350 MW. The contracts end by 2019.

Last year's IRP concluded that after signing the PPAs, Basin Electric's next-most economic resource would be adding a 500-MW to 600-MW combined cycle plant in the 2020 time frame. The cooperative issued an RFP in June that Basin Electric expects "to provide possible power purchases and/or new projects that may help Basin Electric supply power to its members, long term and delay the need to install a capital intensive resource until a later date," the cooperative said.

Ethan Howland

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Charlotte Observer

TURNING TWO COMPANIES INTO ONE

Published: June 29, 2013

By Bruce Henderson — bhenderson@charlotteobserver.com

A year after the shock and awe of Duke Energy's merger with cross-state Progress Energy, the companies are starting to work as one, says the executive charged with making that happen.

"We're hitting our numbers and feeling pretty good about it," said Lee Mazzocchi, Duke's chief integration and innovation officer.

The combination that closed July 2, 2012, created the nation's biggest regulated utility with 7.2 million customers in the Carolinas, Florida, Ohio, Indiana and Kentucky.

A year later, after five-month state investigations, it also paved the way for Duke to be led by women. New CEO Lynn Good starts Monday, replacing Jim Rogers, and lead director Ann Maynard Gray will take over as chairwoman on Dec. 31.

A core selling point for the merger was expected savings to be passed to customers, taking some of the sting out of future rate increases.

Through April, Mazzocchi said, Duke has recorded $97 million of the $687 million in savings it guaranteed to Carolinas customers over five to six years. The savings, which are far ahead of the $70 million Duke expected to save in the first year, come from using less fuel and jointly operating its Carolinas power plant fleet.

The fuel savings have come from burning cheaper coal from the Illinois Basin and Northern Appalachians at Duke's larger plants, and from greater use of low-priced natural gas. Duke says it has locked in, through contracts, $238 million of the $331 million in fuel savings it expects over five years.

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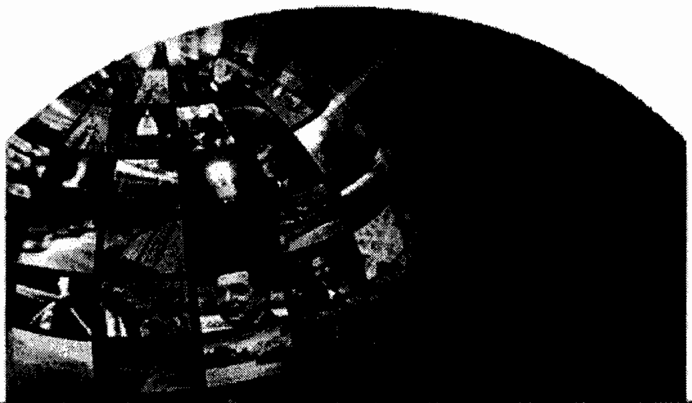

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Top Stories

SNL.com
Friday, May 31, 2013 6:08 PM ET

Praised as a tough 'cop on the beat,' FERC's Wellinghoff says manipulators must feel pain

By Glen Boshart

During a May 31 interview on C-SPAN, departing Federal Energy Regulatory Commission Chairman Jon Wellinghoff received high praise from several callers for his stern demeanor and appearance as a tough "cop on the beat" who is looking out for potential manipulation of wholesale power and natural gas markets.

The show's host also pointed to a recent article in The Baltimore Sun praising Wellinghoff for his "aggressive approach" in taking on Wall Street banks and large energy firms, especially in comparison to other regulators charged with looking for manipulation in the oil and gasoline markets. Sen. Maria Cantwell, D-Wash., has also praised Wellinghoff for his tough stance on market manipulation.

"Just seeing your appearance, you seem like a pretty serious guy," said one caller from eastern Connecticut. "You look like a tough guy who gets the job done." The caller went on to say that if the people in charge of the agencies tasked with overseeing the banking and other industries that "perpetuate scams" were more like Wellinghoff, "the country would be a lot better off."

Wellinghoff, who recently announced that he plans to step away from FERC after almost seven years as a commissioner, attributed his agency's aggressive approach to tracking down energy market manipulators under his watch to the passage of energy legislation in 2005 and the extra resources he has dedicated to that effort since he became chairman more than four years ago.

The Energy Policy Act of 2005 boosted FERC's market oversight authorities and raised the amount the agency could penalize a company that engages in market manipulation from just $10,000 per day of illegal activity to $1 million per day, Wellinghoff explained. He also recalled that FERC had less than 10 employees assigned to ferreting out market manipulation when Enron's downfall occurred in late 2001, while it now has more than 200 people analyzing data and looking for suspicious market behavior and anomalies.

Wellinghoff suggested that his agency has not been shy in pursuing large penalties when it does discover market manipulation — a unit of Constellation Energy Group Inc. agreed to pay a $135 million fine in March 2012, and FERC is considering a recommendation by its staff that Barclays Bank PLC be forced to pay a record $469.9 million penalty — because sanctions have to send the proper message.

"If you go into a market and take $100 million out of it improperly, then the fine needs to be some multiple of that so that they know it's not just a traffic ticket; it's not just something that they can write off on their bottom line and do again and not fear the economic consequences," Wellinghoff stated.

As for how high the financial consequences will have to be to hurt JPMorgan Chase & Co. if FERC decides to pursue penalties in its investigation of that company's activities, Wellinghoff refused to speculate since that case is still ongoing. However, he said any penalties imposed by the agency for market manipulation have "to hurt enough so they don't do it again" and so other companies are deterred from engaging in similar activity.

Asked why he has decided not to seek another term once his current term expires June 30, he said that the time has simply come for him to move on after being with the agency for almost seven years and serving as its chairman for more than four. He insisted that he "has done a lot" during that time, citing a number of wide-ranging new rules and initiatives designed to encourage broader regional planning, energy efficiency and demand response. It simply is time to turn the reins of FERC over "to a new class," he maintained.

Wellinghoff has said he plans to stay on at the agency until the next head of FERC has been nominated or confirmed. If no one is established as his replacement in the meantime, he could stay on in that role until the end of the current congressional session.

While a number of people have been rumored to be in the running as Wellinghoff's potential replacement, including current FERC Commissioners John Norris and Cheryl LaFleur, the manner of Wellinghoff's resignation appears to indicate that the next chairman may come from outside the agency.

Gossip among Washington insiders suggests that the president may select Rose McKinney-James, who has ties to the Obama administration and is rumored to have the support of Senate Majority Leader Harry Reid. McKinney-James is the managing principal of Energy Works Consulting and of McKinney-James & Associates, both of which are based in Las Vegas.

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Greenwire

FERC: Outgoing chairman fields calls on C-SPAN, reflects on his legacy

Hannah Northey, E&E reporter

Published: Friday, May 31, 2013

The chairman of the Federal Energy Regulatory Commission said today that he's stepping down because he has been there "a long time" and has managed to push through major reforms in grid planning and oversight of the energy markets.

"I've been there seven years, which is a long time for a FERC commissioner," Chairman Jon Wellinghoff said during an interview with C-SPAN's "Washington Journal." "I think it's time to move on, look for other opportunities and sort of turn it over to the next group."

Wellinghoff came to FERC to fill a vacant seat in 2006 and was reconfirmed in 2008 for a full five-year term as a commissioner. President Obama tapped him in March 2009 to become chairman; his current term expires at the end of next month.

During his tenure, the former Nevada consumer advocate ushered in far-reaching rules to revamp how new power lines are planned and paid for, and eased the path for renewable generators to connect to the grid. He also oversaw the agency's implementation of new policies to strengthen demand response and spark innovative transmission and "smart grid" technologies.

"I've done a lot there, and I think it's time to turn it over to a new class," he said.

Wellinghoff will continue leading the commission and its 1,500 employees until Obama picks a replacement and secures Senate confirmation.

There is a lot of talk in Washington about whom the president might choose. Sources have pointed to FERC's two sitting Democratic commissioners, Cheryl LaFleur and John Norris (Greenwire, May 29).

Wellinghoff said little about what's next for him, but he vowed to recuse himself from any votes involving firms he'll be speaking with in coming months. Federal rules will prohibit him from doing business before the commission for one year after his departure.

He touched on the agency's stepped-up oversight of manipulation in the wholesale power and gas markets, and said FERC has already collected enough in fees from users and fines from manipulation cases to cover its annual budget of more than $300 million.

"We already almost paid for ourselves," he said.

FERC has recently stepped up its oversight of market manipulation and collected millions in fines from Wall Street banks accused of gaming power markets, including Constellation Energy Commodities Group. Wellinghoff said scrutiny has ramped up since the 2001 Enron scandal and since FERC obtained more authority under federal law to oversee the markets and impose fines of up to $1 million daily.

"I think we're actually doing it very effectively in the sense that I think we're corralling in the good portion of what fraud there is out there," he said. "We're seeing a lot less now, certainly, than we did see back in the Enron days, so I think we can have confidence in these markets going forward."

The chairman did not provide a timeline for when FERC would conclude its investigation of JPMorgan Chase & Co. FERC has accused the bank of overcharging grid operators and customers in Michigan and California up to $83 million, drawing the ire of lawmakers from those states (Greenwire, May 30). The timeline could depend on whether FERC settles the case or issues an order, he said.

The outgoing chairman also took questions from C-SPAN callers, some angry over the agency's approval of new gas pipelines to ship around a newfound glut of shale gas.

"I got breast cancer because of you, buddy," said one caller who said she got sick from methane leaking into a nearby well.

Wellinghoff said that such issues are not under FERC's jurisdiction and instead are handled by the federal or state environmental agencies, and that he does believe gas can be developed responsibly.

"We have to recognize there are trade-offs we have to make to ensure we can have the quality of life" we desire, he said. "That doesn't mean it can't be done in an environmentally sensitive way to minimize damage" to consumers and the environment.

Wellinghoff also said he believes that potential exports of domestic natural gas will not cause prices to spike, noting that export terminals -- that FERC must approve -- are expensive and time-consuming to build. Instead, the United States is likely to see production continue to increase and new shale plays will be found, and prices will remain relatively stable, he said.

"We're seeing new availabilities of gas that we never even knew were in existence," he said. "The price is going to stay very stable for a long time, between the $3 and $6 range."

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Inside FERC

June 3, 2013

Wellinghoff set to resign once replacement is confirmed, will continue to lead commission and vote

Chairman Jon Wellinghoff has told President Obama that he will step down from FERC once a replacement is confirmed by the Senate, a commission official said last week, confirming rumors that had swirled through the Washington energy community over the past few weeks.

In the meantime, Wellinghoff "will continue as chairman and vote on matters before the commission," said FERC spokesman Craig Cano.

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009 and presided over major rulemakings on transmission planning and cost allocation, renewable energy, conservation and demand response. His extensive legacy also includes aggressive monitoring and investigation of energy market manipulation and restructuring of the commission's offices to emphasize infrastructure protection and policy and innovation.

Wellinghoff's current term expires at the end of June, after which he can continue to serve during a grace period running through the current session of Congress.

Sources told Platts earlier last week that Wellinghoff had told senior staff of his plans and that a public announcement would be made soon.

Attention now turns to Wellinghoff's replacement, and various sources have said the new commissioner likely will be named chairman. According to one source, an announcement from the White House on the nominee is imminent.

Candidates said to be in the running for the spot include: Rose McKinney-James, a former Nevada Public Service Commission member with ties to the Obama presidential campaign and Senate Majority Leader Harry Reid; Ron Binz, a former chairman of the Colorado Public Utilities Commission; Collette Honorable, chairman of the Arkansas Public Service Commission; and attorney Regina Speed-Bost, a partner with Schiff Hardin.

Speed-Bost, who started her career at FERC, said it "would be an honor to serve on the commission," though she added that there had been no official conversations with the White House. "I believe I know the industry very well, and would have something to offer" if chosen, she said.

A call to McKinney-James seeking comment was not returned by press time. Honorable and Binz declined to comment.

While serving as chairman of the Colorado PUC from January 2007 to April 2011, Binz was an active member of the National Association of Regulatory Utility Commissioners. Prior to that, he was an energy and telecommunications consultant, served as president of the Competition Policy Institute and directed the Colorado Office of Consumer Counsel.

Honorable's name has come up before, and she would provide Southern state representation currently lacking at the commission. She has served on the Arkansas commission since 2007 and was named chairman in January 2011.

Senator Ron Wyden, chairman of the Energy and Natural Resources Committee, was among those who touted Wellinghoff's accomplishments at FERC. "Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets," said the Oregon Democrat. "While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply."

NARUC President Philip Jones applauded Wellinghoff's efforts to "help build understanding and bridge differences" between federal and state regulators. "Although we have had our disagreements . . . we utilized our collaborative dialogues to maintain a positive relationship."

Wellinghoff's strong support for development of demand response resources was reflected in remarks by Dan Delurey, executive director of the Association for Demand Response and Smart Grid.

The chairman "moved the demand response ball down the court, beyond just 'curtailment' programs aimed at ensuring reliability," said Delurey, adding that Wellinghoff's "vision and forethought . . . puts him among a rare group of policymakers who can be said to have helped an entire industry turn a corner and move in a new direction."

With backing in the Senate by Reid, Wellinghoff was confirmed and joined FERC in 2006 as a commissioner. In a December 2007 package deal involving a new term for then-Chairman Joseph Kelliher, Wellinghoff received a fresh five-year term.

Following his first inauguration in January 2009, Obama elevated Wellinghoff to chairman, replacing Kelliher.

Before joining FERC, Wellinghoff was in private law practice. He also served two terms as Nevada's first consumer advocate. In that role, he represented utility consumers before the Public Utilities Commission of Nevada, FERC and in appeals before the Nevada Supreme Court.

Chris Newkumet

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Electricity Policy

Jon Wellinghoff's legacy at FERC? Judgment must wait on future results

By Kennedy Maize

May 31, 2013 – Jon Wellinghoff is leaving the Federal Energy Regulatory Commission sometime soon. What legacy does he leave behind? It's a difficult question to answer, in part because of what he brought to the commission to begin with.

While a lawyer, like most FERC commissioners, Wellinghoff was different than most prior commissioners in that he was neither a Washington insider nor a former state utility regulator. He was a state consumer advocate, the first ever to get a slot at FERC, and coming from an institutional environment skeptical of how regulators have operated. He was truly an outsider.

Here are some of the most memorable past FERC appointees,: Charlie Curtis (former House staffer), Rick Richard (former Senate staffer), Chuck Trabandt (former Senate staffer), Betsy Moler (former Senate staffer), Branko Terzic (former state regulator), Curt Hebert (former state regulator), Mark Spitzer (former state regulator), John Norris (former state regulator), Tony Clark (former state regulator).

Unlike most of his predecessors, Wellinghoff spent much of his earlier career challenging state regulators and federal laws and rules from the outside. Before his FERC appointment, Wellinghoff served two terms as Nevada's first utility consumer advocate. As he proudly noteson his section of the FERC web site, in Nevada he wrote the first state integrated planning law for utilities and was the "primary author" of the state's renewable energy portfolio standard.

Wellinghoff was never particularly close to state regulators and at FERC had frequent polite disagreements with the National Association of Regulatory Utility Commissioners. Upon his resignation announcement, Washington state regulator Philip Jones, the current president of NARUC, said, "Under his watch, Chair Wellinghoff spearheaded the several FERC-NARUC collaborative dialogues on issues of regional and national concern. These discussions help build understanding and bridge differences between federal and State regulators. Although we have had our disagreements, as there is always a natural tension between State and federal governments, we utilized our collaborative dialogues to maintain a positive relationship."

When Wellinghoff was first named to the commission in 2006 as a minority member, at the behest of Senate Majority Leader Harry Reid (D-Nev.), he scarcely made a ripple and drew no notice even from the New York Times. When named chairman in 2009, the Times highlighted his green credentials, quoting the veteran Natural Resources Defense Council electricity guru Ralph Cavanagh, "He's been a consistent advocate of sustainable energy policies — energy efficiency, renewable energy and clean distributed resources, and he has focused on making sure these resources are treated fairly in energy markets (many of which had been notorious for hostility to these relative newcomers)."

What stands as Wellinghoff's signature accomplishments as a federal regulator? Several accounts properly point to FERC's Order No. 1000, which he championed and pushed through the commission approval process.

This is the FERC rule that dramatically changes the way the transmission grid will be planned and developed in the future, mandating a collaborative regional process. The order has drawn fire from the two Republicans on the commission for its provision that drops FERC's prior deference to incumbent transmission owners, as well as the commission's willingness to ignore the historic preference for honoring existing contracts, blessed by the Supreme Court as the Mobile Sierra doctrine.

The implementation of Order No. 1000 has been slower and more contentious than Wellinghoff and the commission majority intended. But it has gone forward. Whether future commissions will continue the emphasis on turning the transmission system into something that requires closer and more inclusive planning, both within regional groupings and across regional lines, may burnish or dim Wellinghoff's legacy.

How the new transmission planning regime will work won't be clear until long after Wellinghoff has left the commission. But that is often the fate of FERC leaders who plow new policy ground.

Perhaps not far behind Order No. 1000 in importance, and a potentially significant Wellinghoff legacy, was FERC Order No. 745, adding to its prior Order 719, that in organized markets demand response resources must be compensated for the service they provide to the market at the locational marginal price for energy.

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Electricity Policy

The name game begins for replacement of FERC Chairman Jon Wellinghoff

May 31, 2013

By Kennedy Maize

May 31, 2013 – With Jon Wellinghoff's tenure at the Federal Energy Regulatory Commission coming to an end, who will replace him as chairman and as a third Democrat on the commission? The name game has already begun.

The "inside the Beltway" front runner to replace Wellinghoff as chairman is John Norris. He's a dedicated Democrat, former chairman of the Iowa Utilities Board, and former chief of staff for Agriculture Secretary Tom Vilsack. He has been a diligent FERC commissioner and carved out a niche on the issue of reforming formula transmission tariffs. But Norris has detractors. One veteran energy industry observer says, "Norris talks too much and says too little" at commission public sessions.

A leading outside candidate for appointment to the commission, and perhaps to be named chairman, is Colette Honorable, chair of the Arkansas Public Service Commission. A black lawyer from Little Rock, she's been active in state politics as a Democrat and a player in the machinations of the National Association of Regulatory Utility Commissioners. She's been mentioned in several press accounts as a likely appointee.

Another outsider, who hasn't drawn much attention but who has ties to Senate Majority Leader Harry Reid (D-Nev.), is Rose McKinney-James. She is also a black lawyer, who served on the Nevada Public Utility Commission and was chairman of the state's Department of Business and Industry. She's the principal of a private Las Vegas firm, Energy Works LLC, and serves on the board of directors of both the Energy Foundation and the American Council for an Energy Efficient Economy. According to the ACEEE web site, she served on the 2008-2009 Obama administration transition team and was the lead on FERC issues.

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Inside FERC
June 3, 2013

Reliability could play key role as states eye potential legal challenges to ROFR laws

The need to maintain system reliability could play a major role in states' defense of laws designed to provide incumbent utilities the right to build certain transmission lines, as observers say that such considerations could help those laws withstand scrutiny in the event of all-but-certain legal challenges.

The ideas are emerging as more states are pursuing laws that offer some protection of incumbent utilities' right to build certain transmission lines without competing with other developers, also called their right of first refusal, in the face of FERC's implementation of Order 1000.

Under the rule, FERC largely eliminated incumbent utilities' ROFRs. In recent comments defending the commission's decision, Chairman Jon Wellinghoff said that "I don't believe a state could say only an incumbent can build in the state, period."

Said Wellinghoff, "I believe that's a violation of the Commerce Clause. And I think a non-incumbent who had a plan approved by a regional entity could take that state to court. I think they'd have a very good case."

While FERC in Order 1000 said that nothing in the rule "is intended to limit, preempt, or otherwise affect state or local laws or regulations with respect to construction of transmission facilities," the National Association of Regulatory Utility Commissioners recently charged that FERC had gone beyond its original intent to remove federal ROFRs and had taken steps that infringe on state authority (IF, 27 May, 1). In doing so, NARUC expressed concern over Wellinghoff's comments and pointed to FERC's actions in recent orders on Order 1000 compliance filings.

In recent petitions for reconsideration, NARUC argued that FERC erred in its directives to remove references to state law from the tariffs of PJM Interconnection, Midcontinent Independent System Operator and South Carolina Electric and Gas.

At the same time, a growing number of state legislatures are examining and enacting laws that create some sort of state ROFR, with Oklahoma and Indiana most recently passing such provisions.

But in a presentation to a National Regulatory Research Institute webinar May 29, NRRI General Counsel Rishi Garg found that the ROFR law passed in Oklahoma as well as laws approved in Minnesota and the Dakotas in recent years are "facially discriminatory" under the US Constitution's dormant Commerce Clause, a legal construct that bars states from "unjustifiably" discriminating against or burdening interstate commerce.

As such, this would subject those laws to what is called the strict scrutiny standard, Garg said, which holds that such laws are invalid unless they can be "justified by a factor other than economic protectionism" and if the state can show that there was no other means to advance its interest.

In asking what "legitimate state interest" is being protected in such laws, Garg suggested that states analyze whether a competitive solicitation model for transmission development or an approach that prefers incumbents would be better for its state and ratepayers, taking into account potential impacts on the reliability of its grid, economic and public policy goals and other considerations.

This type of analysis could help a state ROFR law withstand a court challenge under strict scrutiny, Garg said. In an earlier interview, Garg noted that it is not beyond the realm of the possible that a court considers reliability considerations as legitimate and justified state interests.

In response to a question on the potential for reliability to be a state interest in a dormant Commerce Clause defense, Suffolk University law professor Steven Ferrey said on the call that most dormant Commerce Clause exceptions deal with things that need to be quarantined, which cannot be easily applied to electricity.

But Ferrey said that reliability is an "excellent consideration" for states looking at these issues, and if the states handle the matter correctly and do not use reliability arguments to veil other motives, then the argument could be in play.

In an interview after the call, Ferrey pointed to several pending cases where both the dormant Commerce Clause as well as the Supremacy Clause — under which a state's law can be found to be beyond state authority — are in play and involve both power issues and challenges to state actions.

Those included Rocky Mountain Farmers Union v. Goldstene, which is on appeal and currently awaiting a ruling in the 9th US Circuit Court of Appeals, which dealt California's low carbon fuel standard; Entergy Nuclear Vermont Yankee v. Shumlin, on appeal before the 2nd US Circuit Court of Appeals, which pertains to

the state's efforts to shutter the nuclear plant; and PPL EnergyPlus, et al. v. Solomon, et al., pending before the US District Court for the District of New Jersey, which is considering New Jersey's Long-term Capacity Agreement Pilot Program.

Ferrey also pointed to a May 20 US Supreme Court ruling in City of Arlington, Texas, et al., v. Federal Communications Commission, et al., in which the court ruled that the FCC could decide the scope of its authority under statute rather than just substantive matters within that authority, so long as it is reasonable.

In the 6-3 decision, the high court invoked the framework created under its 1984 decision in Chevron v. Natural Resources Defense Council, wherein courts defer to an agency's action in cases where the statute is silent or ambiguous and when the agency's justification is found to be a permissible construction of the statute.

In this case, the high court affirmed the lower court ruling, which held that "courts must apply the Chevron framework to an agency's interpretation of a statutory ambiguity that concerns the scope of the agency's statutory authority (i.e.,its jurisdiction)," according to the ruling.

What is noteworthy about the Arlington decision for potential challenges to ROFR issues, Ferrey said, is that both the Federal Power Act and the Communications Act of 1934, the law which FCC implements, are quite old and give states the authority to site and construction infrastructure.

For independent adjudicatory agencies like FERC and the FCC, Ferrey said, the court's finding that Chevron applies in this manner provides some latitude as long as your actions constitute a "reasonable interpretation" of the statute. As such, FERC's determination is entitled to some deference as to the breadth of its authority, including perhaps what is and is not included in tariffs.

While states could conceivably argue that FERC actions are impinging on its FPA-derived authority over construction of transmission lines, the commission could argue in response that ROFR-related actions fall within the scope of its jurisdiction because of their potential impact on rates.

Bobby McMahon

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Electric

Megawatt Daily
June 3, 2013

DR participation falls in PJM capacity auction

Bucking the trend of the past two years, the amount of demand response offered and cleared fell this year in the PJM Interconnection's annual capacity auction. Experts said PJM's pursuit of new rules for demand response may have had a dampening effect on offers while the lower prices in this year's auction limited how much demand response cleared.

The results of PJM's annual capacity auction for delivery year 2016/2017, also known as the reliability pricing model's base residual auction, were announced May 24 and showed sharp decreases in clearing prices throughout the region with the exception of the Public Service Enterprise Group zone in New Jersey.

About 12,408 MW of demand response cleared in this year's auction, a roughly 16% decrease from the 14,833 MW of demand response that cleared in last year's auction for delivery year 2015/2016 and also below the 14,118 MW total for delivery year 2014/2015. The MAAC zone — which includes Pennsylvania, New Jersey, Maryland and Delaware — saw a 1,299 MW decline in cleared demand response in this year's auction, while the rest of the region saw a decrease of about 1,126 MW.

Experts said the lower clearing prices in this year's auction limited how much demand response cleared. The regional transmission organization clearing price plunged to $59.37/MW-day, a roughly 56% decrease from its clearing price of $136/MW-day in last year's auction for delivery year 2015/2016. The clearing price for the MAAC zone fell to $119.13/MW-day, a 28.9% decrease from last year's clearing price of $167.46/MW-day.

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Gas Daily
May 2, 2013

US can act now on cybersecurity, FERC commissioner says

The US does not need Congress to act to take immediate steps to reduce cyber threats to energy infrastructure, Tony Clark, a member of the Federal Energy Regulatory Commission, said Wednesday.

The House of Representatives recently passed cybersecurity legislation but the Senate has not acted on the measure and the Obama administration has threatened to veto it.

But while Congress debates the issue, the government can still act on things like security clearances and classified information, Clark told a meeting of the National Energy Marketers Association in Washington.

On security clearances, Clark said, "that's a matter of making sure that those people who are in the right positions in energy companies who need to know about this information have the security clearances before the 5 am threat that needs to be dealt with by 11 am in the morning." Regarding classified information, Clark said there is a tendency to overclassify information, rendering it so vague that it is inactionable.

President Obama in February issued an executive order directing federal agencies to provide qualified US companies with unclassified and classified threat reports. It also directed the secretary of Homeland Security to expedite the security clearance process for employees of critical infrastructure owners and operators.

FERC also addresses cybersecurity by approving critical infrastructure protection standards written by North American Electric Reliability Corp., Clark noted. "It is, I think, a process that can deal with the issue of setting the security ecosystem so that there are standards and best practices that are employed."

However, the CIP standards do not address fast- moving threats, Clark said. "That may take further congressional action, as will information sharing issues amongst the industry."

— Kate Winston

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Politico Pro

Guessing games abound on FERC's Wellinghoff

By Darius Dixon

5/1/13 7:47 PM EDT

FERC may fly under the radar for most of Washington, but in the wonky corners of the energy policy world, questions about whether Chairman Jon Wellinghoff will return for another term are growing.

With his term set to expire at the end of next month, several FERC observers are getting antsy.

Wellinghoff, 63, was appointed chairman by President Barack Obama in 2009, but the White House hasn't moved to renominate the Democrat, nor has it responded to emails about his future.

One former FERC official said many were still wondering whether Wellinghoff was even interested in serving for another 5-year term.

In December, Wellinghoff said he'd "certainly consider" another term at FERC if Obama was interested, but cautioned: "You never want to leap ahead of the president. You always want to be waiting in the wings if called upon."

But last month, he took a more muted line.

"That's really going to be up to the White House, ultimately, and I haven't had any conversations with them," he told reporters in early April.

"There's nothing new on this front," FERC spokeswoman Mary O'Driscoll told POLITICO Wednesday when asked if Wellinghoff would comment on his future plans.

Although Wellinghoff's term expires June 30, he would be allowed to stay on as head of the commission until the end of the current congressional session sometime in December, which significantly reduces the White House's urgency of naming a replacement.

But the chairman raised eyebrows among former FERC officials, agency staff and other observers when he kicked off the most recent commission meeting by giving out Chairman Awards to senior agency staff.

"I think a number of people trying to read the tea leaves noted that," one longtime FERC watcher said. "That's kind of the thing you do when you're really into your swansong."

Among those who received awards was Wellinghoff's chief of staff Jim Pederson, who joined his staff shortly after he was sworn in as a FERC commissioner in 2006. Pederson is also planning to retire after 34 years at FERC.

Another observer also noted that Wellinghoff has been traveling more frequently in recent months. And he opted to skip the agency's two most recent natural gas-electric technical conferences, even though the meetings were held at FERC headquarters and the issue has gotten a lot of attention from other commissioners.

Wellinghoff has said that FERC isn't likely to issue major new orders or embark on any new initiatives over the next year. If he stayed for another five years, FERC's agenda would be more about maintenance than ambitious rulemakings.

Still, some sources caution that FERC watchers should not read too much into that because the agency is busy dealing with compliance filings related to its 2011 rule on transmission planning and cost allocation, Order 1000.

"They're deluged by the Order 1000 compliance and that could be taking up all their time," said former FERC Commissioner Marc Spitzer, who departed in 2011.

"He could stay around for another five years ... but for the next 12 months they're going to be doing Order 1000 stuff, either at FERC or at the court of appeals," he said.

Observers are also watching to see whether Wellinghoff starts recusing himself from key decisions — a routine move for commissioners who are actively interviewing for jobs near the end of their terms. Spitzer, for example, recused himself for several months at the end of his term to avoid potential conflicts of interest before he joined the law firm of Steptoe & Johnson.

But even that isn't a definitive signal since Wellinghoff could simply continue to vote as normal ahead of a possible resignation, and then simply take a cooling-off period before he joined a firm with interests in the energy sector. Or he could also simply retire.

To be sure, as nonpartisan, technical regulator, FERC is far down the list of agencies in need of new leadership in Obama's second term. Although top positions at the departments of Interior, Treasury, State and Defense have been filled, the White House is still pushing its picks for EPA, Energy, Labor and Transportation through Senate approval.

Even though FERC avoids partisan warfare, its nominees are usually paired with a commissioner from the rival party so that they can win easy approval in the Senate, but the next Republican commissioner's term isn't up until 2015.

Wellinghoff's chairmanship has ruffled some feathers among the Republican ranks on issues such as Order 1000, the agency's response to reliability implications around EPA clear air regulations and the fines the agency

has levied on firms affiliated with Wall Street banks. Those issues wouldn't necessarily put his renomination in doubt, but could put a few bumps in the road.

Chatter that Wellinghoff may be looking to exit could be overblown, Spitzer said.

"I know the chairman loves the job, so I'm not sold that he's leaving. I'm not totally convinced," he said. "He's very interested in policy and he's not looking to build a résumé because he already had a résumé."

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Architectural Record

The Post-Sandy Grid: Unequal Yet Superior?

February, 2013
A two-tier power system could deliver electricity more dependably to everyone.
By Peter Fairley
Blackouts caused by superstorm Sandy and other recent destructive weather events–coupled with dramatic system failures like the great Northeast blackout of 2003–have undermined confidence in the U.S. electrical grid's ability to keep homes and businesses humming. Those with means are increasingly installing their own power generation, and thus raising a provocative question: could the nation soon have a two-tier power system in which reliable electricity is a luxury, as is the case in many developing countries?
Experts in electrical transmission tend to agree that the U.S. is indeed headed toward such a future, in which people with means and initiative will have more consistent power. But this scenario need not beget electrical "have-nots." In fact, experts say the generation capacity installed to make some users more independent of the grid could actually strengthen the electrical backbone upon which everyone else depends.
The key to this apparent paradox is the advanced technologies that will dominate the growing backup-power market. Forward-thinking electricity self-providers will eschew gas-guzzling portable generators that sit idle most of the time and often fall short in an emergency. Instead, their go-to backup-power equipment will be smart, reliable, and efficient enough to run year-round.
Jon Wellinghoff, who chairs the Federal Energy Regulatory Commission, which oversees the U.S. grid, says the shift is well under way. One example is the retrofitting of rooftop solar panels, or photovoltaics (PVs), for operating during blackouts. "It's not a fringe idea," he says.
PV systems generally turn off automatically when the grid goes down, so that utility crews repairing downed lines aren't electrocuted. However, an additional piece of electronics called a transfer switch can, for a few hundred dollars more, allow a system to separate from the grid and safely go on powering its host building.
This "islanding" capability is already standard for Kenny Grigar, cofounder of Taos, New Mexico–based Off-Grid Hardware, which specializes in installing self-sufficient PV systems. Over 40 percent of Grigar's systems are in grid-connected buildings, and most have a transfer switch. Solar panels that don't deliver in a blackout, he says, are only "half a system."
Most of Grigar's systems also include batteries to store some solar energy for use after sunset. That option is getting cheaper as more people adopt electric cars, charge them from rooftop PVs, then direct some of the stored energy to their houses.
Hobbyists are already rewiring hybrid cars such as Toyota's Prius to power their homes during blackouts. Within the next few years that will be a standard option for plug-in cars, according to Guy AlLee, manager of Intel's Energy Systems Research Center in Rio Rancho, New Mexico.
Several natural-gas-fueled power sources heading for the mass market can similarly multitask. They simultaneously generate electricity and hot water, and the gas lines that feed them are generally unaffected by power outages.
These technologies–smarter PV systems, electric cars, cogeneration–benefit more than just their owners. That's because electricity generated where power is consumed makes the neighboring grid stronger and more resilient. Such distributed generation eases demand on the grid, giving it extra margin when demand spikes. And if the grid does go down, customers looking after their own needs make it that much easier for utilities to bring it back up.

However, this utopian vision of an elite serving the greater good as well as themselves could unravel if utility companies that maintain the grid are undermined. If the "haves" aren't completely reliant on a shared grid, support for maintaining it could slowly disappear. Rob Pratt, who manages "smart grid" R&D at the Pacific Northwest National Laboratory in Richland, Washington, warns of a possible death spiral in which distributed generation saps utility revenues, weakening line maintenance and inspiring further flight from the grid.

One solution is a rate hike for those services that most "haves" will continue to demand of the grid. Utilities buy surplus power from distributed generators and pass it to neighboring consumers; they also make grid power available 24/7 in the event that a basement generator blinks out or dim weather idles a PV system. Pratt says the rates for these grid services can be bumped up so distributed generators pay their fair share without crimping the market.

If regulators get the incentives right, the result should be a grid that delivers reliability for all.

Peter Fairley is a journalist based in Paris and British Columbia who covers energy and the environment for Technology Review and Nature.

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Power Magazine

May 1, 2013

FERC's Moeller to Address Natural Gas Issues at ELECTRIC POWER 2013

By David Wagman

Federal Energy Regulatory Commission (FERC) hearings on issues related to natural gas and its use for electric power generation continue this month. The next hearing is set for May 16, two days after Commissioner Philip D. Moeller addresses the natural gas/electric power generation nexus in keynote remarks delivered to the 15th annual ELECTRIC POWER Conference in Chicago. POWER is a media affiliate of the conference.

Moeller and fellow Commissioner Cheryl A. LeFleur pushed last year for FERC to open a docket, No. AD12-12-000, to consider coordination of issues between the natural gas and electric power industries. In testimony to the House Energy and Commerce subcommittee on Energy and Power in March, Moeller said, "the challenges we face with gas and electric coordination is a good problem to deal with as it's partially the result of abundant domestic gas resources."

He cautioned, however, that the challenges are "serious, very real, and somewhat urgent," especially in New England and the Midwest. "Indeed, some in the industry believe nothing short of a major blackout will provide sufficient motivation to the various stakeholders to solve the problems facing us."

Pipeline companies told a FERC conference last summer that their systems in the Northeast are consistently running near design capacities. The lack of available capacity may limit regional pipeline flexibility and result in flow restrictions and balance requirements. Gas and electric industry participants told FERC that relatively little gas-fired generation in New England is backed by primary firm pipeline transportation contracts. Instead, participants said that generators typically rely on released secondary firm or, to a lesser extent, interruptible transportation pipeline capacity.

An official with the Midwest Independent System Operator (MISO) told FERC that it expects around 30,000 MW of coal-fired generation to be retired or taken offline for retrofits to meet emission standards between 2012 and 2015. This likely will result in a greater reliance on gas-fired generators, raising concerns at MISO about the availability of coal units during winter months when natural gas demand is highest.

In his March testimony, Moeller cited five trends as largely responsible for the growing use of natural gas for power generation. First, it is easier to site and build generating plants that burn natural gas. Second, even though grid expansion can be more efficient and less expensive than building new generating plants, it is increasingly difficult to construct electric transmission lines. Third, baseload generation—and natural gas–fired capacity in

particular—is needed to firm growing amounts of intermittent renewable generation resources. Fourth, regulations imposed by the Environmental Protection Agency will result in what Moeller called a "significant amount" of coal generation to be retired or retrofitted. Fifth, lower natural gas prices are the result of new supplies being extracted using technological advances in horizontal drilling and hydraulic fracturing.

Moeller said he worries that warmer weather in 2011 and 2012 may have masked system vulnerabilities that will be exposed when more normal, colder weather patterns occur. "My goal heading into next winter is to have additional confidence that natural gas and electric system operators in each region have widely disseminated and understood communication protocols in the event of extreme weather that results in greater system demands," he said. Moeller said it's not yet clear if formal FERC action will be needed to assist those communications channels.

A second issue is whether or not FERC must address differences in gas and electric scheduling and trading days, and whether such changes would foster greater efficiency and increased reliability. Until now, the gas and electric power industries largely operated independently of each other, and if problems arose, sufficient pipeline capacity typically was available. Moeller said that such flexibility is less common as power generators rely more on natural gas–fired generation and non-firm pipeline transportation contracts.

Moeller said FERC also will need to consider whether the correct market rules, investment signals, and environmental policies are in place to ensure that adequate natural gas infrastructure exists to meet growing demand.

Commissioner Moeller's address at ELECTRIC POWER 2013 is part of a morning Keynote Session and Executive Roundtable that begins at 8:30 a.m. at the Donald E. Stephens Convention Center in Rosemont, Ill., adjacent to O'Hare International Airport. Registration details can be found here.

Source: POWER

—David Wagman, Executive Editor

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Electric

Megawatt Daily
May 2, 2013

Merchant generator challenges may be systemic

Merchant generators have been working against the challenging headwinds in wholesale power markets for a couple of years, but separate reports from two analysts now posit that the challenges could be more systemic than cyclical.

Power markets are "troubled" and even though some people think that the climate will improve when more states open up, things are going in the opposite direction, Julien Dumoulin-Smith at UBS Securities said.

In his report, Evaluating the Competitive Landscape, Dumoulin-Smith wrote that the landscape is shifting and that there is a "fundamental re-evaluation" of the merits of restructuring taking place in many regions.

The markets where investors can expect a return of and on investment are limited to the PJM Interconnection and the Electric Reliability Council of Texas, Dumoulin-Smith said.

Merchants in those markets warrant premium cash flow multiples, while generators in regions and states such as California, New York and New England face more regulatory risk given the uncertainty over how to procure new generation.

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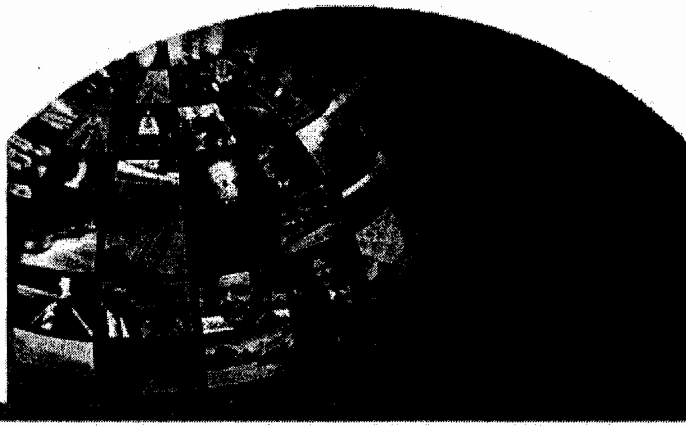

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Wednesday, May 29, 2013 Visit our News Clips website

Top Stories

SNL.com
Wednesday, May 29, 2013 6:30 AM ET

FERC's Wellinghoff tenders resignation, effective when replacement takes helm

By Esther Whieldon

FERC Chairman Jon Wellinghoff has tendered his resignation to President Barack Obama but plans to stay on at the agency until the next head of FERC has been nominated and/or confirmed, Wellinghoff told SNL Energy late May 28.

If no one is immediately named as his replacement, Wellinghoff's term as chairman, which began in 2009, would end June 30, although he could stay on in that role until the end of the current Congressional session.

Wellinghoff also confirmed that earlier on May 28 he had met with senior FERC staff to tell them of his plans. He told staffers he expects to continue voting on FERC proceedings until he leaves, unless he otherwise needs to recuse himself.

A number of people have been rumored to be Wellinghoff's potential replacement, including current FERC Commissioner John Norris and Arkansas Public Service Commission Chairman Colette Honorable.

Norris and Honorable were not immediately available for comment.

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Gas Daily
May 29, 2013
FERC Chairman Wellinghoff tells White House he's moving on: sources

Apparently having acknowledged that another term on the commission is not in the cards, Federal Energy Regulatory Commission Chairman Jon Wellinghoff has notified the White House that he will resign, effective when a replacement is confirmed, according to sources.

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009. He was not available at press time to comment.

Rumors running through the Washington energy community over the past few weeks came to a head on Tuesday, as sources related that Wellinghoff had told senior staff of his plans and that a public announcement would be made soon.

His replacement on the commission would be named chairman, various sources said, noting that Commissioners Cheryl LaFleur and John Norris, both Democrats, would be passed over for the top spot. In some circles, Norris had been considered the next in line to take up the gavel.

According to one informed source, Wellinghoff intends to remain at the commission until his replacement is named by President Obama and confirmed by the Senate, which figures to take months. In the meantime, Wellinghoff would continue to participate in the commission's workflow and vote on orders, unless a prospective job opportunity forced a recusal on particular items.

"I'm hearing it's imminent" that Wellinghoff will publicly announce his plans for stepping down, said a second source with a long history of close dealings with the commission. "I've heard all kinds of rumors about this today," said a third source with close ties to FERC.

If accurately related, Wellinghoff's notice to the White House essentially amounts to an acknowledgement that he was not being renominated to another term on the commission when his current term expires at the end of June. With or without a letter of resignation at this point, the practical result would be the same.

After his term officially ends, Wellinghoff can continue to serve on the commission during a grace period running through the current session of Congress. After June 30, he would have to step down once a replacement is confirmed.

A request, through the commission's Office of External Affairs, for Wellinghoff to confirm or deny that he had tendered his resignation was unsuccessful. "The chairman is not available," said spokesman Craig Cano in an email response.

With backing in the Senate by Majority Leader Harry Reid of Nevada, Wellinghoff was confirmed and joined FERC in 2006 as a commissioner. In a December 2007 package deal involving a new term for then Chairman Joseph Kelliher, Wellinghoff received a fresh five-year term.

Following his first inauguration in January 2009, Obama elevated Wellinghoff to chairman, replacing Kelliher.

During his time at the commission, Wellinghoff has championed renewable energy, conservation and demand side management.

Before joining FERC, he was in private law practice. He also served two terms as Nevada's first consumer advocate. In that role, Wellinghoff represented utility consumers before the Public Utilities Commission of Nevada, FERC and in appeals before the Nevada Supreme Court.

Chris Newkumet, Kate Winston

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Electric

Megawatt Daily
May 29, 2013

How slow will demand grow, or will it decline?: analysis

The trend of slower growth in electricity demand has been in place for several years, but different consultants and forecasters vary in how much they factor that trend into long-term forecasts for power usage.

Furthermore, several people interviewed for this analysis believe that the range of forecasts will broaden as power usage trends, efficiency gains and a separation of electricity demand from US economic indicators will make it more difficult to predict where demand will be more than 10 years out.

Thus, for utilities trying to plan where demand will be as they make long-term investments, the future is likely to be more challenging than the present.

Energy Ventures Analysis, a consulting firm based in Arlington, Virginia, is working with a utility client as part of the utility's integrated resource plan, and "we have gotten so many questions" from the utility on demand, efficiency and economic activity, that more uncertainty in the IRP process will be a challenge, said Ben Stravinsky, senior associate at EVA.

Two of the many factors that affect demand forecasts are gross domestic product or some type of US economy indicator, and energy efficiency gains, and both factors are subject to different interpretations in how they will play out over the coming decade or longer.

A collection of six forecasts that have 2025 as a common reference point shows electricity demand -- measured in power sales, which does not include distributed generation at customer sites -- reaching a range of 3,595 TWh to 4,712 TWh in 2025. The forecasts have IHS CERA at the high end of the range, followed in descending order by the National Renewable Energy Laboratory at 4,487 TWh, Energy Ventures Analysis at 4,458 TWh, ICF International at 4,360 TWh, Energy Information Administration at 4,140 TWh and IEE at 3,595 TWh.

IEE, which is a group of investor-owned utilities that focus on efficiency and smart grid technologies, appears to be the outlier in that they are the only group projecting a decline in demand. However, in light of efficiency gains to date and statements by Obama administration officials that an emphasis on efficiency will continue,

IEE is convinced that factoring in building codes, appliance standards and other pressures tamping down demand will be borne out by 2025, said Adam Cooper, research manager at IEE.

New Energy Secretary Ernest Moniz spoke recently at an efficiency conference in Washington highlighting how efficiency will play a central role in US energy policy, and the impact of building codes, where a lot of efficiency gains have yet to be made, point to a declining demand curve over the long term, Cooper said. "We are not certain what everyone else is including in their models, but we are confident in our forecast," he said.

In addition, based on its membership, IEE is closer to utility activities and usage trends than government agencies or consultants.

The group's forecast was foreshadowed a bit late last year in a report by The Brattle Group, which used a survey of utility executives to say it expects electricity consumption to drop between 5% and 15% by 2020. The survey indicates a period of growth for energy efficiency, Ahmad Faruqui, one of the report's authors, said in November.

Some forecasters view a near-term drop in demand as a bump in the road, while others view it as a sign of a new frugality on the part of consumers when it comes to spending and energy use, said John McCue, vice chairman and US energy and resources industry leader at Deloitte LLP. Unlike IEE in forecasting a decline in electricity usage, "I lean toward moderate growth" or a nearly flat demand projection, McCue said in an interview.

Deloitte and numerous financial analysts have pointed out that a future with slow demand gains will put financial pressure on utilities as they have major investments to recover, with a smaller sales base not enabling them to spread their costs out like they have in the past.

Power sales in the US reached 3,839 TWh in 2011, according to the EIA's latest Annual Energy Outlook. That outlook has a reference case and high and low economic growth cases that account for different levels of population growth, gross domestic product and other factors. EIA forecasts power sales to reach 4,140 TWh in 2025, but total demand, which includes distributed generation, is projected to reach 4,344 TWh in 2025, said Joseph Beamon, director of the office of coal, electricity, nuclear and renewables analysis at EIA.

"Everyone has demand growth forecasts falling," and the separation of electricity demand from GDP began some time ago, meaning an economic rebound in the US will not automatically translate to higher power sales, Beamon said. The amount of linkage between GDP and power sales is one of the factors that separates demand projections, Beamon and others said.

The penetration of efficiency standards is an element "that creates divergence among forecasts," added Sebastian Krynski, senior associate at ICF. When it comes to efficiency gains and building energy codes, "there are different views on that," as evidenced by the IEE forecast, he said.

Another uncertainty is the penetration of electric vehicles and the impact they could have on electricity demand, with the infancy of EVs resulting in a broad range of predictions. In a separate IEE forecast, the group projects increased demand from EVs taking hold in a major way after 2020, with a wide range of power usage by 2035, from 33 TWh under a low-EV penetration scenario to 147 TWh under a high-EV penetration scenario in 2035.

EIA, by contrast, projects electricity sales in the transportation sector to move from 6 TWh in 2011 to 19 TWh in 2040.

The Department of Energy's NREL demand forecast is at the high end of the range for 2025, but recent data on efficiency programs would bring that down, said Andrew Satchwell, senior engineering associate in the electricity markets and policy group at DOE's Lawrence Berkeley National Laboratory. LBNL issued a report on utility efficiency programs that concluded the projected energy savings of those programs would offset almost all of the electricity load growth forecasted by EIA to 2025, Satchwell said.

Like a few firms reached for this story, ICF starts with EIA data and then works in different factors to come up with its own projection of electricity demand, said Krynski. Given the uncertainty on long-term forecasting and the changes taking place on efficiency and power usage, "I think the range of forecasts may widen," he said.

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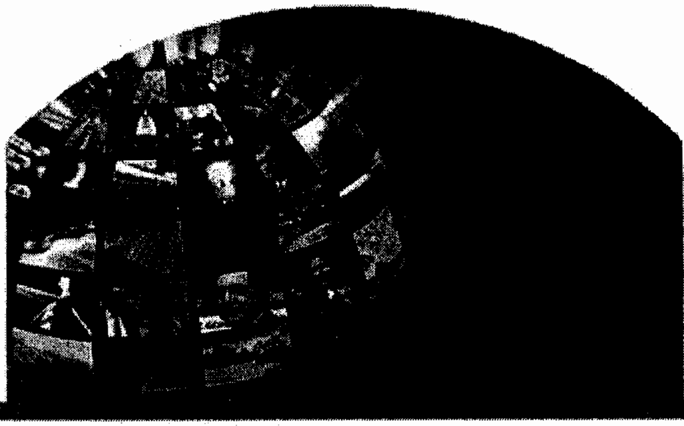

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Top Stories

Las Vegas Review Journal
May 29, 2013

Nevadan Wellinghoff gives up chairmanship of federal energy board

By STEVE TETREAULT
STEPHENS WASHINGTON BUREAU

WASHINGTON — Jon Wellinghoff, a Nevadan and one of government's top energy regulators, is stepping down as chairman of the Federal Energy Regulatory Commission.

Wellinghoff submitted his resignation to President Barack Obama on Tuesday, although a FERC spokesman said he will continue to serve as chairman and take part in FERC votes until a successor is named and confirmed by the Senate.

Wellinghoff's term expires at the end of June. As a practical matter his announced resignation signaled he did not intend to serve another term.

Wellinghoff, who turns 64 on Thursday, did not comment on his resignation and has not indicated his plans after he leaves the agency. FERC did not plan to release his letter to Obama, the spokesman said.

FERC is the federal agency that regulates the transmission and sales of electricity, oil and gas in interstate commerce. It has about 1,500 employees and is headed by a five-member commission with a chairman designated by the president.

As chairman, Wellinghoff has promoted regulations that seek to integrate renewable energy into the nation's transmission systems, and to encourage energy efficiencies.

He also expanded the agency's policing of power markets, including a proposed $470 million fine against Barclays, the British bank, for alleged market manipulation.

Wellinghoff, a Democrat, was appointed to the commission in 2006 and was named FERC chairman in March 2009. He was one of several individuals with Nevada ties who were promoted in government posts by the newly elected Obama at the recommendation of Senate Majority Leader Harry Reid, D-Nev.

Others included Bob Abbey, who became head of the Bureau of Land Management after heading the agency's Nevada office, and Gregory Jaczko, a former Reid aide who was named chairman of the Nuclear Regulatory Commission.

Wellinghoff was raised in Reno and was a graduate of the University of Nevada, Reno.

He was an energy law specialist and primary author of the Nevada renewable portfolio standard that requires energy providers to draw 25 percent of all electricity from renewable sources by 2025.

Wellinghoff served two terms as the state's consumer advocate for public utility customers.

Contact Stephens Washington Bureau Chief Steve Tetreault at stetreault@stephensmedia.com or 202-783-1760. Follow him on Twitter @STetreaultDC.

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Politico Pro

FERC Chairman Jon Wellinghoff stepping down

By: Darius Dixon

May 29, 2013 12:34 PM EDT

Federal Energy Regulatory Commission Chairman Jon Wellinghoff, who oversaw a broad expansion of the regulator's oversight of the electric grid and several probes into improper trading tactics by Wall Street banks, will depart his post.

FERC has a broad set of regulatory powers over interstate power and natural gas lines, energy markets, and hydropower facilities, and Wellinghoff, a Democrat, rankled some Republican lawmakers for rebuffing requests that the agency conduct more analyses on whether EPA air regulations might threaten the reliability of the power grid.

Wellinghoff also shepherded the agency's landmark Order 1000, in 2011, which required grid planners and public utilities to coordinate regional power line projects and encouraged the integration of solar and wind installations. The rule also called for regional partners to devise how to spread the costs of certain new transmission projects across the industry.

During Wellinghoff's tenure, the agency's enforcement office launched series of high-profile investigations into allegations of market manipulation, fraud and tariffs, and has sunk its teeth into the energy units of Deutsche Bank and Barclays. In fiscal 2012, FERC extracted $267 million in setttlements, including a $245 million package from Constellation Energy related to violations of its anti-manipulation rule and a rule barring the submission of inaccurate or misleading information.

Wellinghoff said late last year the agency was not targeting Wall Street, calling FERC "an equal opportunity enforcer."

"We'll go after anybody we believe is engaged in an activity that is inappropriate in violation of the statute," he said in December.

FERC has also played a role in JPMorgan Chase's recent regulatory woes.

The agency informed the bank in March that FERC staff is recommending that a possible enforcement action be brought against JPMorgan stemming from an investigation into bidding practices in organized power markets, according a to regulatory filing released earlier this month.

The agency is alleging that the bank manipulated trading in California and Michigan electricity markets and that JPMorgan executives gave misleading statements to agency officials investigating the issue, according to the New York Times.

Wellinghoff submitted his resignation to President Barack Obama, according to a FERC spokeswoman, and will stay on until a new commissioner is confirmed to the five-member body.

The Obama administration has yet to nominate a replacement, which has kept many agency observers guessing for weeks. Colette Honorable, chairwoman of the Arkansas Public Service Commission, has been rumored to be a top pick to replace Wellinghoff although it's unclear whether a new commissioner or Commissioner John Norris, the next senior Democrat, would become chair.

Wellinghoff confirmed his resignation to SNL Energy late on Tuesday, and that he had met with senior FERC staff to tell them of his plans and that he will continue voting at FERC until he leaves.

- Matt Daily and Dave Clarke contributed

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Greenwire

FERC: Chairman -- a champion of clean power -- resigns

Hannah Northey, E&E reporter

Published: Wednesday, May 29, 2013

This story was updated at 2:08 p.m. EDT.

Federal Energy Regulatory Commission Chairman Jon Wellinghoff, a driving force behind the Obama administration's efforts to green the electric grid, is resigning.

Wellinghoff told Greenwire today he'll stay in his post until President Obama taps a replacement and secures Senate confirmation.

"I expect I will be here for at least several more months and will continue as chairman and voting on matters before the commission," Wellinghoff said in an email.

A former Nevada consumer advocate, Wellinghoff came to FERC to fill a vacant seat in 2006 with the backing of Senate Majority Leader Harry Reid (D-Nev.). He was reconfirmed in 2008 for a full five-year term as a commissioner, and Obama tapped him in March 2009 to become chairman -- a step that didn't require Senate confirmation. His current term expires June 30.

It remains unclear whether Obama will tap a sitting Democratic FERC commissioner -- Cheryl LaFleur or John Norris -- to take the commission gavel or whether he will pick an outsider.

Any new commission member would need to be confirmed by the Senate Energy and Natural Resources Committee, which has questioned whether FERC is doing enough to protect the grid from tough new U.S. EPA air pollution standards.

Industry insiders said Obama is likely to tap a favorite of Reid's, possibly Rose McKinney-James, a former commissioner with the Nevada Public Utilities Commission, a Las Vegas businesswoman, lobbyist and renewable energy consultant.

Obama turned to McKinney-James in 2008 to lead his transition team's FERC review. She also chaired the Nevada Renewable Energy and Energy Conservation Task Force, where she worked with Wellinghoff to champion the issues of solar, efficiency and other green power sources (Greenwire, Nov. 17, 2008). She is currently the managing principal of Energy Works LLC, a Las Vegas-based public policy advocacy firm focused on renewable energy.

Other names that have surfaced as possible replacements for Wellinghoff: Lori Murphy Lee, a member of the District of Columbia Public Service Commission; Colette Honorable, chairwoman of the Arkansas Public Service Commission; and David Noble, a member of the Nevada Public Utilities Commission.

FERC commissioner Norris is also said to be keen on the chairmanship. When the chairmanship opened in 2009, Norris decided to throw his hat into the ring, knowing that then-Senate Energy and Natural Resources Chairman Jeff Bingaman (D-N.M.) was backing Suedeen Kelly and Reid was backing Wellinghoff, who was then acting chairman (Greenwire, April 15).

Wellinghoff jarred the energy and nuclear industries when he took the helm of FERC in 2009, saying the United States may not depend on fossil fuel or nuclear plants to run all the time.

"We may not need any, ever," Wellinghoff said at the time (ClimateWire, April 23, 2009).

Since then, Wellinghoff has pushed a pro-renewable energy agenda that has at times drawn the ire of Republicans questioning grid reliability and the divvying up of millions of dollars needed to build new power lines.

Wellinghoff was instrumental in pushing FERC's massive, landmark Order 1000, which revamps the process for planning and paying for the nation's high-voltage transmission system to make way for increasing amounts of solar and wind on the grid (Greenwire, July 26, 2011).

"He's demonstrated a strong committment to renewables and demand-side management, and that's certainly the policy agenda he pursued," said William Scherman, chairman of the energy regulation and litigation group with law firm Gibson, Dunn & Crutcher LLP, and FERC's former general counsel. "He accomplished a lot of what he set out to do."

Cybersecurity, reliability

Wellinghoff also ramped up conversations with state regulators at the National Association of Regulatory Utility Commissioners, tackling concerns over grid reliability and new EPA rules, cybersecurity, demand response and the layout of the "smart grid."

"Although we have had our disagreements -- as there is a natural tension between state and federal governments -- we utilized our collaborative dialogues to maintain a positive relationship," NARUC President Philip Jones said in a statement.

Energy and Natural Resources Chairman Ron Wyden (D-Ore.) in a statement praised Wellinghoff for launching critical investigations to protect consumers against traders and financial firms who manipulated energy markets while noting his disagreement on transmission-related issues. Wellinghoff oversaw stepped-up oversight of the power trading markets, and in April 2011 the commission levied a $30 million fine against a trader who gamed the gas markets (Greenwire, April 21, 2011).

"While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply," Wyden said. "His expertise and leadership will be missed."

One of Wellinghoff's major impacts was his successful advocacy of demand response initiatives to reward customers who reduce power when demand and prices peak, industry officials said.

"Jon is really the one who has pushed demand response and recognized it for its economic values -- that it could compete against generation and provide utilities with another option," said Dan Delurey, president of the Demand Response and Smart Grid Coalition, a trade association for this sector of the industry.

Under Wellinghoff, FERC adopted Order 745 in 2011, requiring grid operators in organized electrical markets to pay demand response providers market prices for wholesale power -- as if they were generators. "It wasn't just a question of FERC regulation," Delurey added. "He used the bully pulpit [taking] every opportunity to talk about the entire picture." FERC reported that potential demand response programs grew by 26 percent between 2010 and 2012.

"Jon Wellinghoff will long be remembered as a highly impactful FERC chairman," said Peter Fox-Penner, a principal with the Brattle Group consulting firm. "He understood that the electric and gas industries are both in periods of great transformation," and led FERC policies to promote a lower-carbon, more cyber-secure industry structure.

But just how much of that legacy remains could be determined by a federal appeals court, which is currently considering challenges to Order 1000. A group of utilities is accusing FERC of overstepping its authority when it issued the far-reaching rule (Greenwire, June 5, 2012).

Wellinghoff's legacy will also be shaped by his replacement and just how focused he or she is on ensuring renewables and efficiency are incorporated into the grid, sources said.

Any new Obama nominee is likely to face tough questions on how new federal air regulations and an increased amount of renewable generation will affect grid reliability, said Robert Dillon, a spokesman for Alaska Sen. Lisa Murkowski, the Senate Energy and Natural Resources Committee's ranking Republican. Despite strong Republican concern over EPA rules, Wellinghoff has maintained that implementing the new standards will not cripple the grid (Greenwire, Oct. 28, 2011).

The president's pick will also face questions about the country's response to newly discovered shale gas and export terminals and pipeline infrastructure that FERC regulates.

"Two of the leading issues dealing with FERC have been reliability and gas pipelines," Dillon said.

Reporter Peter Behr contributed.

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Megawatt Daily
May 30, 2013

FERC confirms Wellinghoff's impending departure

Federal Energy Regulatory Commission Chairman Jon Wellinghoff has told President Obama that he will step down from FERC once a replacement is confirmed by the Senate, a commission official said Wednesday.

In the meantime, Wellinghoff "will continue as chairman and vote on matters before the commission," said FERC spokesman Craig Cano.

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009 and presided over major rulemakings on transmission policy, renewable energy and demand response.

Wellinghoff's current term expires at the end of June, after which he can continue to serve during a grace period running through the current session of Congress.

Sources told Platts on Tuesday that Wellinghoff had told senior staff of his plans and that a public announcement would be made soon.

Attention now turns to Wellinghoff's replacement, and various sources have said that the new commissioner likely will be named chairman. According to one source, an announcement from the White House on the nominee is imminent.

Candidates said to be in the running for the spot include: Rose McKinney-James, a former Nevada Public Service Commission member with ties to the Obama presidential campaign and Senate Majority Leader Harry Reid; Ron Binz, a former chairman of the Colorado Public Utilities Commission; Collette Honorable, chairman of the Arkansas Public Service Commission; and attorney Regina Speed-Bost, a partner with Schiff Hardin.

Speed-Bost, who started her career at FERC, said it "would be an honor to serve on the commission," though she added that there had been no official conversations with the White House. "I believe I know the industry very well, and would have something to offer" if chosen, she said.

A call to McKinney-James seeking comment was not returned by press time. Honorable and Binz declined to comment.

While serving as chairman of the Colorado PUC from January 2007 to April 2011, Binz was an active member of the National Association of Regulatory Utility Commissioners. Prior to that, he was an energy and telecommunications consultant, served as president of the Competition Policy Institute and directed the Colorado Office of Consumer Counsel.

Honorable's name has come up before, and she would provide Southern state representation currently lacking at the commission. She has served on the Arkansas commission since 2007 and was named chairman in January 2011.

Senator Ron Wyden, chairman of the Energy and Natural Resources Committee, was among those who touted Wellinghoff's accomplishments at FERC. "Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets," said the Oregon Democrat. "While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply."

NARUC President Philip Jones applauded Wellinghoff's efforts to "help build understanding and bridge differences" between federal and state regulators. "Although we have had our disagreements, ... we utilized our collaborative dialogues to maintain a positive relationship."

Wellinghoff's strong support for development of demand response resources was reflected in remarks by Dan Delurey, executive director of the Association for Demand Response and Smart Grid.

The chairman "moved the demand response ball down the court, beyond just 'curtailment' programs aimed at ensuring reliability," said Delurey, adding that Wellinghoff's "vision and forethought ... puts him among a rare group of policymakers who can be said to have helped an entire industry turn a corner and move in a new direction."

With backing in the Senate by Reid, Wellinghoff was confirmed and joined FERC in 2006 as a commissioner. In a December 2007 package deal involving a new term for then Chairman Joseph Kelliher, Wellinghoff received a fresh five-year term.

Following his first inauguration in January 2009, Obama elevated Wellinghoff to chairman, replacing Kelliher.

Before joining FERC, he was in private law practice. He also served two terms as Nevada's first consumer advocate. In that role, Wellinghoff represented utility consumers before the Public Utilities Commission of Nevada, FERC and in appeals before the Nevada Supreme Court.

Chris Newkumet

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Bloomberg

Regulator Who Led Probes of Banks' U.S. Energy Trading Quits

By Brian Wingfield and Jim Snyder on May 29, 2013

Jon Wellinghoff, who as chairman of the Federal Energy Regulatory Commission led a crackdown on U.S. banks over alleged manipulation of energy markets, says he is quitting.

Wellinghoff submitted his resignation to President Barack Obama, who asked him to stay until a new commissioner is confirmed by the Senate, Mary O'Driscoll, a spokeswoman for the agency, said today in an interview. His term expires June 30.

"Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets," Senator Ron Wyden, chairman of the Energy and Natural Resources Committee, said in a statement. Wyden, an Oregon Democrat, also credited Wellinghoff with promoting renewable energy.

The FERC chairman hasn't given a reason for his departure and hasn't made any public announcements about the next stage in his career, O'Driscoll said. He turns 64 tomorrow.

Under Wellinghoff, the commission began investigations of possible energy-market manipulation by companies including Barclays Plc (BARC), Deutsche Bank AG (DBK) and JPMorgan Chase & Co. (JPM), promoted incentives to build power lines and stepped up oversight of electric-grid reliability. He was appointed to the FERC in 2006 and Obama named him chairman in March 2009.

Expanded Powers

Congress in 2005 gave the regulator additional powers to police energy markets, including the ability to fine those who jeopardize grid reliability as much as $1 million per violation per day. The agency under Wellinghoff has expanded its office of enforcement to about 200 people whose tasks include policing markets for manipulation.

Since January 2011, the FERC has disclosed 13 investigations of alleged market gaming, including probes of traders for Barclays of London, JPMorgan of New York and Frankfurt-based Deutsche Bank. While the cases against the banks drew attention, Wellinghoff has said the agency isn't singling out Wall Street in its oversight.

"We're in full enforcement mode," he said in November during an interview with reporters and editors at Bloomberg's Washington office. "We're not at war with anybody. We're simply trying to ensure that these markets are operating in a full and fair manner."

Record Fines

The agency has proposed a record $488 million in penalties against Barclays and four former traders for allegedly gaming U.S. power markets from late 2006 to 2008. Its investigation of possible market violations by a JPMorgan energy trading unit is pending. In both cases, the banks denied wrongdoing, and Barclays has vowed to challenge any penalties in court.

The agency has settled cases with some companies. Deutsche Bank in January agreed to pay $1.6 million to end a dispute with the FERC, backing down from a showdown over the agency's charge that its traders manipulated California's markets in early 2010.

The FERC in March 2012 reached a record $245 million settlement with Constellation Energy Group Inc. over alleged energy trading violations in New York. Neither Constellation nor Deutsche Bank admitted wrongdoing.

Wellinghoff has overseen the U.S. electric grid that is increasingly relying on cheaper natural gas and abandoning coal-fired generating plants. The agency also is adopting protections amid growing risks of cyber attacks against utility networks.

Cyberthreats Mounting

"The number of threats seems to be increasing," he told reporters in April, referring to potential cyber attacks by groups from individuals to nation-states. Last year, the FERC created an office to oversee infrastructure security.

Before being nominated to the FERC, Wellinghoff worked as an energy attorney in Nevada, serving as the state's first consumer advocate for utility customers. He was the main author of a Nevada law to encourage the use of renewable energy, according to the FERC's website.

At the U.S. agency, Wellinghoff pushed for "demand response" technologies, which encourage consumers to cut energy use when supplies are limited. While chairman, the regulator approved a major rule to encourage investment in high-voltage power lines.

Wellinghoff led conversations to ease differences between regional and national regulators on various issues, Philip Jones, president of the National Association of Regulatory Utility Commissioners, said in a statement.

"Although we have had our disagreements, as there is always a natural tension between state and federal governments, we utilized our collaborative dialogues to maintain a positive relationship," he said.

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The Energy Daily
May 30, 2013

Wellinghoff departing FERC; former Nevada regulator in wings?

BY JEFF BEATTIE

Federal Energy Regulatory Commission Chairman Jon Wellinghoff has told the White House that he plans to resign when his term ends June 30, ending a four-year tenure during which the agency dramatically escalated its enforcement efforts against energy price manipulation schemes and rewrote transmission and wholesale power market rules to open the nation's grid to more renewable energy and demand response.

Wellinghoff said he will stay on until a successor is confirmed by the Senate, and one well-placed source says the early favorite to replace him is Rose McKinney-James, a former member of the Nevada Public Utilities Commission (PUC) and long-time Las Vegas-based energy consultant and lobbyist. Said to be a favorite of Senate Majority Leader Harry Reid (D-Nev.), McKinney-James is on numerous influential corporate boards in Nevada and is active in high-profile clean energy and nonprofit groups in the state. She also attended the same law school as Wellinghoff, who was named to FERC with Reid's support in 2006 and became chairman in 2009.

Sources say the White House has also considered Regina Speed-Bost, a partner at Schiff-Hardin LLP who was a staffer to former FERC Commissioner William Massey, for possible nomination to FERC. Colette Honorable, chairman of the Arkansas Public Service Commission, is also under consideration, according to the sources, who say Honorable was considered for FERC when two vacancies arose earlier during the Obama administration.

Also still in the running for FERC's chairmanship, sources say, are current Democratic commissioners John Norris and Cheryl LaFleur.

Norris, in particular, was seen as a potential FERC chairman when President Obama appointed him to the commission in 2010. Norris previously served as chairman of the Iowa Utilities Board and was a powerful presence in the Iowa Democratic party who aided Obama during the 2008 presidential campaign. Norris' wife Jackie served as First Lady Michelle Obama's first chief of staff.

But the well-placed source says the White House has begun leaning toward appointing a chairman from outside the commission, and in particular towards McKinney-James, whose on-line bio lists her as owner or managing principal of three firms and board member of five corporations or non-profits, including MGM Resorts International, the Clean Energy Project and Toyota Financial Savings Bank.

Sources say she has been active representing solar energy interests in proceedings before the Nevada PUC, and Nevada's legislature lists her as a lobbyist representing Bombard Electric, an electric services company with a renewable energy division, and Teach for America, among others.

McKinney-James served as director of the Nevada Department of Business and Industry, and as PUC commissioner from 1989 to 1993. Like Wellinghoff, McKinney-James earned a law degree from Antioch University.

A White House spokesman did not respond to an e-mailed request for comment Wednesday about McKinney-James or any other possible FERC nominee.

Rumors that Wellinghoff would depart have grown in recent weeks as his June 30 term expiration approached with no news of a renomination.

A FERC spokesman said Wednesday that Wellinghoff has "has submitted his letter of resignation to the president. He will remain at the commission until a replacement is nominated and confirmed by the Senate, and he will continue as chairman and vote on matters before the commission."

Wellinghoff leaves FERC after having engineered dramatic change in energy markets since being named chairman in March 2009. He joined FERC as a commissioner in 2006, after a career as an attorney in private practice and a stint as Nevada's first public utility consumer advocate and primary author of the state's renewable portfolio standard.

Once at FERC, Wellinghoff pushed for rules changes in wholesale power markets to ensure that demand response services—provided by power customers who are paid to cut usage when the grid is strained—get the same rates as generators who add supply. Similarly, he sought to eliminate market barriers for renewable generation by rewriting transmission rules to boost power line projects designed to link remotely located wind and solar plants to the grid.

Along those lines, Wellinghoff was a primary driver behind FERC's Order 1000, a sweeping transmission rule passed in 2012 that requires utilities to develop new grid expansion planning and cost-allocation procedures with a goal of upgrading the grid and building the types of long-haul power lines that have have faced regulatory obstacles in getting state approval in the past.

Some power industry executives grumbled that Wellinghoff was focusing FERC regulatory initiatives too heavily on promoting relatively expensive green energy, dovetailing with the Obama administration's energy priorities.

In addition, state regulators and some members of Congress charged that FERC transmission policy under Wellinghoff encroached on states' traditional authority over power line siting. And Senate Energy and Natural Resources Committee Chairman Ron Wyden (D-Ore.) warned FERC against asserting jurisdiction over the extensive Northwest grid operated by Bonneville Power Administration, saying FERC was exceeding its jurisdiction and trampling on regional efforts to balance power system operations with environmental concerns, such as salmon protection.

However, aside from that dispute, Wyden praised Wellinghoff warmly Wednesday upon news of his coming departure.

"Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets." Wyden said.

"While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply. His expertise and leadership will be missed."

Wellinghoff's tenure also was controversial among Wall Street firms that have played an increasingly large role in energy trading. He beefed up FERC's market monitoring capabilities, leading to several high-profile enforcement actions against energy traders who allegedly sought to manipulate energy prices through complex and interrelated schemes in physical and financial markets. Indeed, some sources suggest that the aggressiveness of FERC's enforcement actions under Wellinghoff may have stirred up some level of industry opposition had he been re-nominated for a new term.

In early 2012, Wellinghoff created a new division of analytics and surveillance within FERC's enforcement office that is tasked with developing and applying new tools to scour market data for evidence of wrongdoing.

And in March 2012, FERC issued Constellation Energy a record-breaking fine of $135 million for alleged power market manipulation. Eight months later, the commission accused Barclays Bank plc of manipulating prices in four western power markets and threatened a $435 million fine unless the firm could show it should not be penalized. Barclays denies the charges and is fighting them.

However, FERC's ongoing enforcement efforts have been hampered by ongoing jurisdictional disputes with the Commodity Futures Trading Commission (CFTC) on oversight of energy futures markets, with the CFTC claiming that area as exclusively within its jurisdiction.

FERC lost a round in March, when a federal appeals court struck down FERC's $30 million penalty against a former natural gas trader at the defunct Amaranth Advisors LLC hedge fund who was accused of affecting FERC-regulated physical gas markets by manipulating prices for natural gas futures contracts. The courts said the CFTC has exclusive regulatory jurisdiction over all commodity futures markets and, therefore, FERC did not have authority to fine the trader for allegedly manipulating markets operated by the CFTC-regulated New York Mercantile Exchange.

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Reuters

Chairman of U.S. energy regulatory commission to depart

Wed, May 29 2013
By Ros Krasny

WASHINGTON (Reuters) - Jon Wellinghoff, who as chairman of the U.S. Federal Energy Regulatory Commission stepped up enforcement of rules and investigations into Wall Street banks' trading practices, is leaving.

Wellinghoff submitted his resignation to President Barack Obama late on Tuesday, a spokesman said.

He will remain at the agency and continue to vote on commission matters until a replacement is nominated and confirmed by the U.S. Senate, a process that could take several months.

His term was due to expire at the end of June, and his departure had been anticipated.

FERC, which has about 1,500 employees, regulates the U.S. natural gas, electricity, oil and hydropower industries.

Because Wellinghoff will remain at FERC for now, it could take time before the impact of his departure on the commission's direction is clear.

An attorney from Nevada who specialized in renewable energy and energy efficiency issues, Wellinghoff was appointed as a FERC commissioner in 2006 and was elevated to chairman in 2009. He turns 64 on Thursday.

The remaining Democrats on the five-member commission are John Norris, a former chief of staff to U.S. Agriculture Secretary Tom Vilsack, and Cheryl LaFleur, a former utility company executive.

Energy industry sources rated the elevation of Norris to chairman a possibility, which would let Obama name a Democrat to avoid potential deadlocked 2-2 votes until a fifth commissioner was confirmed.

"If the Commission drops to four commissioners (two Democrats, two Republicans), the Republicans could have a better ability to push for modifications in ongoing matters," analysts at ClearView Energy Partners said in a research note.

Among the outside contenders is Colette Honorable, an attorney who has been chairwoman of the Arkansas Public Service Commission since 2011. Through a spokesman Honorable declined to comment.

Wellinghoff has presided over a massive expansion in the energy regulator's enforcement division that followed the passage of sweeping energy legislation passed in 2005.

FERC's enforcement division has about 200 staff, up from about 20 a decade ago, including many lawyers and former traders with deep knowledge of power markets. It is led by Norman Bay, a former U.S. district attorney from New Mexico, and includes other law-enforcement heavyweights.

Over the past year the regulator has flexed its new muscles with a series of headline-grabbing fines and investigations against large banks.

The actions include a proposed record $470 million fine for British bank Barclays for alleged manipulation of the electricity market.

FERC also imposed a temporary ban on JPMorgan Chase & Co's energy trading arm from part of the domestic power market. The company has said it was notified by FERC staff that it intends to recommend enforcement action to the commission over bidding practices. JPMorgan said it would "vigorously defend" itself.

Wellinghoff has denied that FERC has aimed to push Wall Street players out of the power market.

"We'll go after anybody who we believe is engaged in an activity that is inappropriate or is in violation of the statute," Wellinghoff said in December.

(Additional reporting by Scott DiSavino in New York and Eileen O'Grady in Houston; Editing by James Dalgleish, Jeffrey Benkoe and Kenneth Barry)

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The Hill's E2Wire Blog

Electric grid regulator Wellinghoff to step down

By Zack Colman - 05/29/13 10:42 AM ET

Federal Energy Regulatory Commission (FERC) Chairman Jon Wellinghoff is stepping down from his post as the nation's top electric grid regulator.

"He has notified the White House of his intention to resign. The White House has indicated they would like him to stay until his replacement is nominated and confirmed by the Senate; he has agreed to do so," an FERC official told The Hill in an email.

Wellinghoff's term as chairman ends June 30, meaning his decision indicates he won't seek a second four-year assignment.

Under Wellinghoff, FERC has implemented regulatory changes designed to spur infrastructure investments, ramped up enforcement of power-market manipulators, and he has become a chief advocate for confronting the growing threat of cyberattacks.

The hallmark of Wellinghoff's tenure arguably was FERC Order No. 1000, which removed barriers for planning large-scale upgrades of electric grid infrastructure.

The policy was designed to integrate far-flung sources of energy — such as wind and solar farms — with transmission lines, which carry bulk power to electric substations near more densely populated areas.

Aside from that rule, FERC also has overseen changes to encourage energy efficiency and greater use of demand response, in which electric utilities incentivize curtailing power use during times of high demand.

While those orders are in the rear view, Wellinghoff is also leaving at a time when FERC is taking on new challenges.

The regulator has stepped up its enforcement of alleged power-market manipulators in recent months, issuing multi-million dollar fines against financial firms such as Barclays and JPMorgan Chase.

Wellinghoff has said to expect that activity to continue, saying FERC has recently reached appropriate staffing levels to make such action part of its normal routine.

FERC also is fighting a battle against more hidden actors — cyberattackers.

Wellinghoff has often urged Congress to find a solution on cybersecurity, noting that the electric power sector is one the most vulnerable — and frequent — targets for attacks.

Wellinghoff has said that current laws prevent FERC from taking meaningful steps to protect electric utilities from malicious threats.

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Transmission Hub

FERC Chairman Wellinghoff to step down

05/29/2013By Rosy Lum

FERC Chairman Jon Wellinghoff on May 28 submitted his letter of resignation to the White House, a commission spokesperson confirmed on May 29.

The resignation puts an end to speculation over whether Wellinghoff, who was appointed to the position by President Barack Obama in 2009, would serve a second term as chairman.

Wellinghoff has been with FERC since 2006, when former President George W. Bush appointed him as a commissioner.

His term as chairman was set to expire on June 30, but he will remain at the commission until a new chairman is nominated or when the current congressional session ends.

"He's going to stay until his replacement has been nominated and confirmed by the [U.S.] Senate," FERC spokesperson Craig Cano told TransmissionHub on May 29. "Under the commission rules, although the terms expire on the 30th of June each year, the commissioner can stay at the commission until the end of the then-current congressional session, so there's a grace period during which he'll continue to serve. He'll remain chairman and participate in all votes."

Under Wellinghoff's leadership, FERC's focus on enabling renewable energy intensified, as evidenced, in part, by FERC Order 1000, which aims to open competition to nonincumbent utilities to build new transmission. A number of proposed transmission projects purport to transport renewable energy to load centers.

FERC has also focused recently on the security of the grid, both physical and cyber security, NERC reliability standards, and coordinating the natural gas and electric markets.

Requests for comment to the White House were not returned by press time.

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Upstreamonline.com

Ferc chairman to step down

Luke Johnson

29 May 2013 21:44 GMT

The chairman of the federal US commission in charge of approving a raft of proposed LNG-export projects is stepping down from his post.

Jon Wellinghoff, who has chaired the Federal Energy Regulatory Commission (Ferc) since 2009 and has been a commission member since 2006, does not plan to seek a second four-year term, according to reports. His current term ends 30 June.

Wellinghoff has submitted his resignation to the White House and will keep his seat and vote on proposals until a new commissioner is confirmed to the five-member regulatory body, news website Politico reported.

The news comes as Ferc mulls the fate of about a dozen proposed LNG projects in the US. At least 12 such US projects are awaiting Ferc approval, which is needed before construction can begin and is seen as one the toughest regulatory hurdles to clear. Another six projects have been proposed but have not formally filed for Ferc approval.

The commission has approved only one LNG-export project to date - Cheniere Energy's Sabine Pass facility.

President Barack Obama has not yet named a replacement for Wellinghoff. Colette Honorable, chairwoman of the Arkansas Public Service Commission, has surfaced as one possible option, according to Politico. Commissioner John Norris is the next senior Democrat, but it is not clear whether he would become chair, the news website said.

Ferc is an independent agency that regulates the interstate transmission of electricity, natural gas, and oil.

Wellinghoff helped push through regulatory changes designed to spur development of electric grids and bolstered efforts to hold accountable power-market manipulators. He has also become an outspoken advocate for action against cyberattacks.

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Greentechmedia.com

Wellinghoff to Resign as FERC Chairman

The power market watchdog and smart grid/green energy supporter calls it quits.

Jeff St. John: May 29, 2013

Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, is resigning his post after a four-year tenure marked by aggressive energy market enforcement and some formative support for renewable energy, demand response and smart grid technologies.

Wellinghoff informed President Obama of his resignation Tuesday, and will remain as acting chairman until a replacement is nominated and confirmed by the Senate, according to news reports. Politico reported Wednesday that potential nominees include Arkansas Public Service Commission Chairwoman Colette Honorable and current FERC Commissioner John Norris, the next most senior Democrat on the commission.

Reasons for his departure weren't reported, but Wellinghoff, a former Nevada utility regulator who joined the FERC commission in 2006 and was named its chairman in 2009, did tell an audience at last week's Electricity Storage Association conference in Santa Clara., Calif. that his job was, to describe it in one word, "impossible."

"I oversee the biggest machine in the world," he said, referring to the nationwide power grid, over which FERC has incomplete jurisdiction -- it regulates the interstate transmission of electricity, natural gas and oil, but has limited authority over what utilities and grid operators do within state boundaries.

At the same time, Wellinghoff was a champion of FERC decisions that helped boost the market power and viability of technologies like demand response. FERC Order 745, put into effect in 2011, has helped boost demand response revenues by requiring that grid operators like PJM pay them prices more closely matched to the wholesale market prices that generators make, for example, while FERC Order 755 has allowed fast-acting DR and energy storage assets to balance grid frequency alongside natural gas turbines and other generation resources.

During his time as the head of FERC, Wellinghoff also led investigations into market manipulation and fraud allegations against such big energy traders as Deutsche Bank, Barclays and JPMorgan Chase. Last year, the agency negotiated a $245 million settlement package from Constellation Energy related to violations of rules relating to market manipulation and information accuracy.

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Electric

Megawatt Daily
May 30, 2013
JP Morgan seeks additional payments

JP Morgan Ventures Energy asked the Federal Energy Regulatory on Tuesday to direct the PJM Interconnection and the Midcontinent Independent System Operator to adjust its compensation for power produced while the company's market-based rate authority has been suspended, saying that the company has been paid for power in a manner inconsistent with a recent FERC order on its suspension.

Specifically, JP Morgan is asking FERC to clarify its May 10 order granting rehearing on the stipulations under which the company would operate during a six-month suspension of its market-based rate authority (Docket No. ER13-830), which came after the commission determined that the company submitted false information to California Independent System Operator and FERC during an investigation of the company's activities.

In the November order imposing the suspension, FERC stated that JP Morgan could only participate in wholesale electricity markets by "either scheduling quantities of energy products without an associated price or by specifying a zero-price in their offer," and that the rate the company would receive "will be capped at the higher of the applicable locational marginal price or its default energy bid," which is its cost of production.

FERC March 19 conditionally approved JP Morgan's tariff during the six-month period, but JP Morgan sought rehearing on that order, arguing that PJM and MISO's tariffs would impose unjust and unreasonable rates on JP Morgan during its suspension.

In response, the commission May 10 found that "the tariffs administered by PJM and MISO do not include provisions that would allow JP Morgan to receive the cost-based energy price for its unmitigated sales. JP Morgan further is prohibited from unilaterally modifying the PJM and MISO tariffs. Thus, the conditions imposed by the March 19 Order may subject JP Morgan to a confiscatory rate in the event that the LMP falls below the relevant resource's cost of producing electricity."

FERC in the May 10 order required JP Morgan to submit a filing consistent with the rehearing, which it did on Tuesday. But in a separate filing the same day, JP Morgan asked FERC to clarify that it is entitled to the higher of its costs or LMP during its suspension.

The company noted that it had between the April 1 effective date of its suspension and May 10 submitted $0/MWh offers into PJM and MISO and had been ordered to operate, even though the LMP at the time was below its costs of production.

"The units did receive awards and did produce energy, and [JP Morgan] did incur the costs of operating the units in order to produce that energy," JP Morgan said, going on to say that its offers during those times "cannot now be retroactively changed to cost-based offers because [JP Morgan's] offers, if made at a the cost-based cap, most likely would not have received awards, in which event its units would not have been dispatched."

JP Morgan asked FERC to take "reasonable steps" to ensure cost recovery during those times, saying that it is "it is necessary for the commission to order PJM and MISO to pay [JP Morgan] at the cost-based offer cap for those periods when [JP Morgan's] costs were greater than the applicable LMP."

In the event that FERC determines that JP Morgan "is not entitled to payment at least at its costs when it was required under Commission orders to submit offers at $0/MWh," the company said in the filing that rehearing is necessary to avoid "confiscatory outcomes" during the period in question.

Bobby McMahon

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baltimoresun.com

Lawmaker asks Justice Department to investigate JPMorgan power trading

David Sheppard
Reuters
8:06 PM EDT, May 29, 2013
NEW YORK (Reuters) - A Congressman on Wednesday called on the Department of Justice to investigate JPMorgan Chase & Co's power trading in Michigan, as the Federal Energy Regulatory Commission (FERC) considers whether to sanction the firm.

Michigan Congressman Dan Kildee, a Democrat who sits on the Committee on Financial Services, said in a letter to the DoJ that it should pursue its own investigation into JPMorgan to see if it manipulated electricity markets.

The bank has told shareholders it has been notified by FERC staff that they intend to recommend that the five members of the commission take action over an alleged manipulative trading scheme in Michigan and California earlier this decade.

JPMorgan has denied that it manipulated power markets, and has vowed to "vigorously defend" itself and its employees.

"These allegations are serious charges, including traders devising deliberate schemes to manipulate energy prices and top bank executives lying under oath," said Kildee in the letter, a copy of which was obtained by Reuters.

"The people of Michigan, and the American public generally, deserve a marketplace where all participants play by the same rules. I urge the Justice Department to resolve this matter by investigating these potentially illegal practices."

JPMorgan spokeswoman Jennifer Zuccarelli declined on Wednesday to comment on Kildee's letter, but said that the FERC notice to the bank is only a "statement of the staff's views, and does not represent findings of the commission."

She added "we strongly disagree" with the FERC conclusions.

The Commission has not accused the bank of market manipulation. Federal regulators often notify targets of investigations to give them a chance to show why enforcement actions should not be brought.

The regulator has, however, sanctioned the U.S. bank's electricity trading unit for failing to disclose information during the investigation. It imposed a six-month long restriction on its power trading starting April 1.

Pressure has also mounted on the bank since a May 2 New York Times report cited a confidential FERC document saying investigators had found evidence JPMorgan Energy Ventures Corp. devised "manipulative schemes" in Michigan and California between 2010 and 2011.

The alleged scheme saw authorities in California and Michigan make "excessive" payments of around $83 million to JPMorgan, the New York Times report said citing the FERC document.

FERC Chairman Jon Wellinghoff, who has stepped up enforcement of rules and investigations into Wall Street banks' trading practices during his time at the regulator, on Tuesday submitted his resignation to President Barack Obama.

He will remain at the agency and continue to vote on commission matters until a replacement is nominated and confirmed by the U.S. Senate, a process that could take several months. His term was due to expire at the end of June, and his departure had been anticipated.

(Story is refiled to include "power" in headline, no change to text)

(Reporting by David Sheppard; Editing by Bob Burgdorfer)

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SNL.com
Wednesday, May 29, 2013 5:34 PM ET

FERC audit finds Southern Co. may owe refunds to transmission customers

By Marcy Crane

Noting that Southern Co. acknowledges that its subsidiaries improperly booked certain costs as recoverable expenses, FERC on May 28 directed the utility to take corrective actions recommended in a recent staff audit report, including providing refunds for any over-recovery that resulted from its errors.

Staff's audit report found that between Jan. 1, 2010-Dec. 31, 2011, Southern and its subsidiaries failed to record as "below-the-line" expenses costs associated with work performed on behalf of political action committees, payments resulting from compromise settlements, charitable contributions and lobbying costs. Instead, staff said, those costs were entered into "above-the-line" accounts that are meant for operating expenses and other costs generally presumed to be recoverable in rates.

The Southern companies accordingly were directed to provide refunds, plus interest, if any of their accounting errors resulted in improper recovery through the operating companies' transmission formula rates.

Staff undertook the audit to evaluate the Southern companies' compliance with cross-subsidization restrictions on affiliate transactions and various accounting, record keeping and reporting requirements.

According to the report, Southern subsidiaries Southern Co. Services Inc. and Southern Nuclear Operating Co. did not properly record almost $1.2 million in payments resulting from compromise settlements related to employment practices. Moreover, when those costs ultimately were allocated to Southern's franchised public utilities — Alabama Power Co., Georgia Power Co., Gulf Power Co. and Mississippi Power Co. — the utilities also incorrectly recorded them in above-the-line accounts.

In each case, the Southern companies said they believed the settlement costs should be recoverable because the deals "provided cost certainty" and "exhibited good business practice," the audit report recalled.

Staff disagreed, however, explaining that while it understands the Southern companies' position that the compromise settlement expenses represent a "legitimate cost of doing business," the Uniform System of Accounts has been interpreted to require that such costs be recorded in a below-the-line account. "Therefore, Southern's incorrect accounting ... resulted in Southern improperly recovering these costs from transmission formula rate customers," staff said.

The report also found that the costs of work Southern Co. Services and Southern Nuclear Operating employees performed on behalf of their respective political action committees were incorrectly passed through to the operating companies and subsequently recorded in above-the-line accounts. Similarly, Southern Nuclear Operating improperly recorded $10,044 in charitable contributions and lobbying costs in above-the-line accounts and later billed those costs to Alabama Power and Georgia Power, which incorrectly recorded some of them in above-the-line accounts, staff said.

The total amount the Southern companies ultimately will be required to pay in refunds is unclear; however, staff said the dollar values associated with the PAC-related work, charitable contribution and lobbying cost-accounting errors "were immaterial." Staff nevertheless stressed the importance of proper accounting, as such incorrect cost allocation "could impact amounts billed to transmission customers" because the above-the-line accounts were included in the operating companies' formula rate mechanism.

In addition, the report faulted Southern Co. Services for employing a system that only allows it to convert its books from using its own internal accounts to using the commission's accounts on an annual basis, which staff said presented certain challenges during the course of the audit.

Altogether, staff made 25 recommendations for addressing the areas of noncompliance, many of which were aimed at ensuring that costs are allocated to the appropriate accounts and that Southern can convert its books from its internal accounts to the commission's accounts on at least a monthly basis.

Southern already has implemented corrective actions that address some of the report's recommendations, such as establishing or enhancing policies and procedures designed to ensure that Southern Co. Services and Southern Nuclear Operating submit certain reports to the commission in a timely manner and appropriate format, and that they provide proper notification when certain records have been lost or prematurely destroyed, staff said.

As for the rest of the recommendations, Southern was directed to submit an implementation plan within 30 days. The company was also given 30 days to file a revised accounting correcting its errors and was ordered to

submit quarterly reports indicating the progress it has made toward completing the implementation plan. (FA12-1)

Las Vegas Review Journal

NV Energy to be acquired by Warren Buffett

By JENNIFER ROBISON LAS VEGAS REVIEW-JOURNALMay 29, 2013 - 1:22pm

Nevada's corporate community got a big jolt Wednesday when the world's best-known investor dropped a few billion bucks on the local power company.

Warren Buffett's Iowa-based MidAmerican Energy Holdings Co. announced plans to buy NV Energy in a $10 billion deal. About $5.6 billion in cash will go toward buying all of the utility's outstanding shares at $23.75 each. The rest is the acquisition of company debt. MidAmerican, which already owns a renewables division, a transmission business and the Kern River Gas Transmission Co., said it plans to leave NV Energy's executives in place.

Few business leaders are as admired as Buffett, and his decision to invest here puts Nevada's corporate world on the map, said Robert Lind, managing partner of local investment brokerage Berkshire Bridge Capital, which is unrelated to Buffett's Berkshire Hathaway conglomerate.

"Anytime we get someone like Warren Buffett to acquire a Nevada company and not get rid of management, it raises the level of perceived sophistication that there are well-managed companies here," Lind said. "This will shine a flashlight on Nevada for sure."

That higher profile culminates three years of strategizing on NV Energy's future, said board Chairman Phil Satre. When MidAmerican approached NV Energy earlier this year, it didn't take long to see the possibilities, NV Energy President and CEO Michael Yackira added.

"It's clear from their track record in the states they operate in that they focus on customer satisfaction and expanding renewable energy," Yackira said. "Their expertise developing wind projects in Iowa and solar energy in California can be brought to bear to develop those resources more quickly here."

In a statement, Buffett was equally effusive about NV Energy.

"This is a great fit for Berkshire Hathaway, and we are pleased to make a long-term investment in Nevada's economy," Buffett said in a statement. "Through MidAmerican, we have found in NV Energy a great company with similar values, outstanding assets and a superb management team."

The boards of both companies unanimously approved the deal at 1:01 p.m. Wednesday.

WHAT MAY CHANGE

The move kicked off a flurry of analysis on how — or whether — the deal would affect the state's power markets and consumers. For now, at least, most changes will happen behind the scenes, with little effect on ratepayers.

Perhaps the biggest difference is that NV Energy will go from having thousands of shareholders to just one.

About 25 institutions, including JP Morgan, Vanguard and T. Rowe Price, hold 60 percent of NV Energy shares. The rest are individual investors. NV Energy's dividends flow to those investors, but after MidAmerican takes over, dividends will stay local and be reinvested in the company, Yackira said. Plus, there may be more capital for new projects.

"It has never been their (MidAmerican's) method of operation to extract dividends from the companies they invest in," Yackira said. "They're looking for ways to invest more into our state, and if there are opportunities to invest over and above what we have as cash flow, they will provide that to us."

Borrowing costs may come down too, as the two combined companies — MidAmerican has 7 million gas and electric customers worldwide, and NV Energy has 1.45 million in the state — mean a stronger single business, Yackira said.

NV Energy also plans to look at its customer-service practices, Yackira said. There is no current plan to consolidate call centers or customer service activities, and its 2,600-employee roster should mostly be unchanged, Yackira said. But both NV Energy and MidAmerican said they're open to new approaches that would improve service.

Eric Witkoski, the state consumer advocate who represents residential ratepayers in utility rate cases, said he definitely sees room for improvement, and it could take MidAmerican to do it.

"The current management of (NV Energy) has cut back on such services in what appears to be an attempt to improve profitability to make it more attractive to an acquiring company," Witkoski said. "Hopefully, a new company would provide better customer service while managing rate impacts."

There is one group of people NV Energy knows it no longer will keep. As it goes private, the board of directors will dissolve. Nor will the company need investor-relations staffers.

Otherwise, many of the company's operations should stay the same for the foreseeable future.

WHAT STAYS THE SAME

NV Energy will stay headquartered here and operate as an autonomous unit, MidAmerican said. That means few changes in day-to-day operations.

More importantly, don't expect immediate changes in your power bill. NV Energy's general rates are locked in by state law for three years at a time. The next rate case isn't up until 2014, and rate changes couldn't take effect before Jan. 1, 2015, though fluctuating natural gas prices could affect what you pay for direct power costs before then.

Also, count on continued emphasis on renewable energy. MidAmerican recently announced it would invest $1.9 billion in wind farms in Iowa, and Greg Abel, the company's chairman, president and CEO, said in a statement he's excited about supporting NV Energy's focus on boosting its green power portfolio.

Those ecofriendly overtures probably won't ease pressure on NV Energy to dump its coal-fired power plants — in particular, its Reid Gardner station near Moapa. The Sierra Club released a statement noting that MidAmerican's PacifiCorp subsidiary is the largest operator of coal plants in the West. It criticized the company's "backward-looking insistence" on "spending ratepayer dollars to keep old coal plants running."

"It's time to transition dirty coal out of the Berkshire Hathaway portfolio," the group said.

But at least one public official who has been at odds with NV Energy over the size of its green portfolio offered an olive branch Wednesday.

"I've spoken to Warren Buffett, Michael Yackira and Phil Satre, and it is not often I have been as enthused about a deal as I am now," Senate Majority Leader Harry Reid, D-Nev., said in a statement. "I am elated. It is really good news for Nevada that Warren Buffett wants to invest $5.5 billion in our state. He told me that he loves Nevada and now has an excuse to come here more often."

For NV Energy's two big, ongoing capital investments, it should be business as usual. The buyout needs the approval of NV Energy's shareholders, the state Public Utilities Commission, the Federal Energy Regulatory Commission and the U.S. Department of Justice, so it probably won't close before the first quarter of 2014, Yackira said. By then, NV Energy's $301 million NV Energize smart meter initiative and its $552 million, 235-mile One Nevada transmission line, should be finished.

After the sale wraps, don't expect many changes in NV Energy's C suite: MidAmerican executives "are very excited about the strategic direction of Michael Yackira and his team," Abel said. "It is an excellent fit with our business model and customer focus."

Lind agreed NV Energy's leadership probably would stay intact.

"This would have to be perceived as a compliment to the management team at NV Energy and a really positive reflection on a well-run organization," Lind said. "Warren Buffett doesn't invest in companies that need a turnaround."

In fact, NV Energy already has forged its turnaround.

from past to future

The company has gone in the past decade from owning 39 percent of its generation to having an industry standard of nearly 80 percent; it spent $4.3 billion to get there. Having its own power sources made service more reliable, which in turn attracted investors: NV Energy's market cap soared 350 percent, to $4.1 billion, between 2003 and 2012. The company restored dividends in 2008, five years after it suspended them, and quarterly dividends per share rose from 8 cents to 17 cents from 2008 to 2012.

Despite those improvements, NV Energy executives found themselves marveling at Wednesday's turn of events. For Yackira, who came to NV Energy in 2003, and Satre, who joined the utility's board in 2005, striking a deal with Buffett would have been inconceivable five years ago.

"I would have said, 'I can't imagine that,' " Satre said. "We had our heads down and were looking at the road ahead. It was a pretty short road at that time, just going quarter-to-quarter and year-to-year. This kind of agreement was not something we were thinking about."

Added Yackira: "I think it really comes down to the employees of this company. They stuck with a generation-building strategy that was tough to do when we first embarked on it. They put their nose to the grindstone to deliver. I'm so proud of the fact that an investor like Warren Buffett, who could invest anywhere, chose our company as his first really big foray into Nevada."

This may not be the final step in NV Energy's recovery. Witkoski said it's early in negotiations, and another suitor could offer a proposal.

He also cautioned that Senate Bill 123, a proposed state law that NV Energy says would let it close the 800-megawatt Reid Gardner early and replace it with 900 megawatts of renewables, hasn't passed the Legislature yet.

"We are surprised at the timing," Witkoski said, because it seems the MidAmerican buyout would depend at least in part on SB123's passage.

The deal's announcement came just before markets closed. NV Energy's shares shot up $4.45, 23.1 percent, on the New York Stock Exchange in after-hours trading, closing at $23.73.

Contact reporter Jennifer Robison at jrobison@reviewjournal.com or 702-380-4512. Follow @J_Robison1 on Twitter.

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Gas Daily
May 30, 2013

Buffett's Mid-American to buy Nevada utility for $5.6 billion

Warren Buffett's Mid-American Energy Holdings will pay $5.6 billion in cash and assume roughly $500 million in debt to buy Nevada's NV Energy, a local utility with 1.3 million natural gas and electric customers in the state, Mid-American said Wednesday.

NV Energy serves 145,000 gas customers in the Reno area, according to the company website.

Shares in Las Vegas-based NV Energy soared higher in after-hours trading, gaining 24% in off a $19.28 close to $23.92/share, a bit more than the $23.75/share takeout price Mid-America said it will pay.

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Top Stories

Reuters

US power regulator's JPMorgan case could be on summer simmer

6:59am EDT

By Patrick Rucker and Scott DiSavino

WASHINGTON/NEW YORK, May 31 (Reuters) - Even before the chief U.S. power market regulator announced his resignation this week, the agency pursuing a contested probe against JPMorgan Chase & Co for alleged market manipulation had good reason to take its time building the case.

The bank, already embroiled in a public legal battle with the Federal Energy Regulatory Commission (FERC) over disclosing certain emails, alerted investors earlier this month that it expected FERC to move against the bank for trading activities in electricity markets. That followed the leak of FERC's initial findings, raising expectations of near-term action.

Yet former officials and legal experts say recent events could give FERC cause to build its case for several more months, taking time to evaluate the legal scope of its oversight after an unexpected set-back in court and to consider the next step in a high-profile case against Barclays that has gone quiet.

And now, to await the replacement for its chairman, who will step down after a period of unprecedented action.

Chairman Jon Wellinghoff, who joined the commission in 2006 just a year after Congress vastly expanded FERC's powers to pursue market manipulation after the Enron scandal, confirmed his resignation from the post on Wednesday. He will remain in the position until a replacement is confirmed.

While much of the enforcement work has fallen to former U.S. Attorney Norman Bay, Wellinghoff's leadership since 2009 has coincided with a series of high-profile actions and settlements against big powers in the electricity market.

"Unless you're facing irreparable loss, there is no need to hurry," said Susan Court, FERC's director of enforcement from 2005 through 2009.

TIME TO SETTLE?

The case is one of several major FERC enquiries that have unnerved the U.S. power market, and added to a handful of regulatory woes facing JPMorgan Chief Executive Jamie Dimon. Critics say the agency is overreaching; FERC officials say they are simply cracking down on market malfeasance.

At the same time, political pressure is mounting: Michigan Congressman Dan Kildee, a Democrat who sits on the Committee on Financial Services, this week called on the Department of Justice to investigate the bank's power trading in Michigan.

JPMorgan has acknowledged the probe, but says it "strongly disagrees" with the FERC conclusions and insists that it acted properly in all trades. A representative of the bank declined any further comment this week on the possible timing of FERC action.

While the bank has said it is readying for a long fight, a slower approach from FERC could allow for more time to coax the bank toward settlement talks - and spare one if its top executives, commodities chief Blythe Masters, public scrutiny.

"The more complicated cases do tend to take longer to work out and it is also a fact that most cases do settle," says former commissioner Marc Spitzer, who is now a partner at the law firm of Steptoe and Johnson LLP in Washington.

RULINGS CLUTTER

In mid-March, a federal court ruled that FERC overstepped its authority when it fined Brian Hunter of Amaranth Advisors LLC $30 million for the $6 billion in bad bets he booked on natural gas futures that precipitated the firm's collapse.

The court found that FERC's punishment was out of bounds since Hunter made bets on natural gas futures - the domain of the Commodity Futures Trading Commission (CFTC).

Weeks later, a further complication: the CFTC agreed to hand FERC most of its authority over the power market, but retained some jurisdiction over power trades on an "as-needed basis". (Press release: link.reuters.com/zyv38t)

"If I were FERC, I would want to make sure I'd settled this question of authority before going too far with these cases," said Suedeen Kelly, head of the energy regulatory practice at Akin Gump in Washington, who served more than six years as a FERC commissioner.

That ruling may have been particularly vexing for its case against British bank Barclays Plc, which is based on trading activity in both physical and derivative markets.

After issuing a recommendation last October to fine Barclays $470 million for manipulating the California power market from late 2006 to 2008, the case has yet to move forward to a formal vote by commissioners. FERC declined to comment on its status.

The case against JPMorgan is not as advanced. First, FERC staff still need to issue the "show cause" order, bringing the case against the bank - and Masters - into full public view.

"Don't discount the personalities in something like this," said Court, who advises on energy matters as SJC Energy Consultants. "Defending your reputation is part of the negotiation."

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Greentechmedia.com

Jon Wellinghoff, Departing FERC Chairman: A Day in the Life of the Grid

FERC understands the limitations of the current grid. A favorite Wellinghoff presentation revisited.

Eric Wesoff: May 30, 2013

As we reported yesterday, Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, is resigning his post after a four-year tenure marked by some formative support for renewable energy, energy storage, demand response and smart grid technologies. Politico reported Wednesday that potential nominees include Arkansas Public Service Commission Chairwoman Colette Honorable and current FERC Commissioner John Norris, the next most senior Democrat on the commission.

Wellinghoff made a presentation in 2012 that was notable for its vision of more rational energy pricing markets and its practical graphics. We revisit it here.

"A Day in the Life of the Grid" revealed that the FERC commissioners get the smart grid and the necessity "to unleash the information and unleash the power" of the American electrical grid, as Wellinghoff put it. His presentation gave an hour-by-hour snapshot of wholesale utility pricing across the Midwest Independent System

Operator (MISO) using diagrams based on Ventyx imaging software. (Ventyx was acquired by ABB for over $1 billion in May of 2010.)

Wellinghoff spoke of the need for utilities to be "restructured to unbundle their service" and to "think in non-traditional terms, where utilities are a different animal."

"Unleashing information on energy and prices allows consumers to use their energy smartly," according to the Commissioner, and "the first step is to give consumers access to the real costs of delivered energy -- so that they're not in the dark."

Wellinghoff noted that it's becoming increasingly affordable to control the timing and duration of energy use given the advances in hardware, software and regulatory sophistication.

"Coupling energy consumption with real-time pricing...is a very powerful tool," said the now-retiring Commissioner.

Here's the gist of his presentation, now with images that were not available in the original article. The full FERC PDF file is here.

A Day in the Life of the Grid

July 21, 2011 is a day that will live in infamy.

Not really. But it was the hottest day of the year in the Midwest, and the Midwest Independent System Operator (MISO) territory, which spans 13 states, has 140,000 megawatts of generation under its control, and sells $27 billion of electricity per year.

And on this particular day in July, the region would experience a new peak of 104 gigawatts.

Wellinghoff gave an hour-by-hour status of the MISO region. He looked at the impact on big-box stores, aluminum smelters, data centers, and electric-vehicle charging. He noted that consumers are paying $0.09 per kilowatt-hour despite the wholesale rate ranging from $0.00 to $1.00 per kilowatt-hour.

2:00 a.m.: Despite low energy prices across the region, there is no rate incentive for consumers to charge their electric vehicles at this time of day. Electric vehicles could provide regulation service -- if they could participate in the market, according to Wellinghoff.

3:00 a.m.: Prices are near zero.

4:00 a.m.: Wind resources are still trapped in the western portion of the region because of transmission issues. The average wholesale energy price is about $0.023 cents per kilowatt-hour. At this time, an EV could charge at 40 cents per gallon gasoline equivalent, according to Wellinghoff.

5:00 a.m.: People in Detroit are waking up, and as power ramps up, pricing starts to rise.

7:00 a.m.: Wind starts to ramp.

8:00 a.m.: Trapped wind prices rise in constrained areas, but 100 miles away, prices are 10 cents per kilowatt-hour. The grid has generators inefficiently ramping up when it would be more efficient for customers to change their loads. Wellinghoff said that this is an inefficient way of operating the grid.

9:00 a.m.: MISO declares a maximum energy event.

9:35 a.m.: Frequency on some lines drops to 59.964 cycles.

10:00 a.m.: Wind "is falling off a cliff" but ramp is rising. Peak wind is 3 gigawatts less than the previous day.

11:00 a.m.: High prices above $0.10 per kilowatt-hour start to hit the system as imports from PJM dry up.

12:00 p.m.: The wholesale markets are indicating the true costs of energy, but there is a disparity between the wholesale price and the price the customer is paying.

1:00 p.m.: The temperature is 100 degrees, but wind is down to 1 gigawatt. Only 1,800 of 30,000 turbines are producing power.

2:00 p.m.: Maximum energy warning declared.

4:00 p.m.: PJM sets an all-time peak record of 160 gigawatts while wind drops to a low point. There is a west-to-east price shift that shows a need for transmission build-out.

5:00 p.m.: The maximum energy event is terminated, but people are still making energy decisions with no knowledge of real-time electricity pricing.

6:00 p.m.: Temperatures are starting to cool off in the Midwest and prices have halved.

7:00 p.m.: Higher temperatures are holding firm in some areas and keeping the supply-demand balance tight.

8:00 p.m.: The heat index near the Lake Michigan shoreline and in eastern Michigan drops and demand falls.

9:00 p.m.: Streetlights come on and generating resources go down. MISO brings on more expensive power.

12:00 a.m.: The system becomes unconstrained as the load continues to drop.

The FERC Commissioner summed up his talk with this statement:

"If we want our nation's energy system to remain efficient, we need to align prices with the costs of production. With a new transparent pricing environment, an array of businesses and aggregators can provide automated services that will control consumer loads. In sum, the new opportunity in energy is to align the [consumer] price with the real wholesale price."

He added that this will "enable loads like water heaters, refrigerators, and EVs to adapt to pricing. This is the challenge for the entire smart grid and cleantech industry."

He exhorted those in the utility industry to "unleash the information [and] unleash the power."

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North American Wind Power

Wellinghoff To Resign As FERC Chairman

in News Departments > New & Noteworthy

by NAW Staff on Thursday 30 May 2013

Jon Wellinghoff, who presided over the U.S. electric grid at a time of tremendous growth for renewable energy, is stepping down as chairman of the Federal Energy Regulatory Commission (FERC). He is expected to remain

in the position until the Senate confirms his successor.

Characterized as a "champion of change" by the American Wind Energy Association (AWEA), Wellinghoff's four-year FERC tenure coincided with increased wind penetration on the U.S. grid, as well as the building-out of renewable energy transmission infrastructure.

"Chairman Wellinghoff is a pioneer and strong champion of change overseeing the U.S. electric grid," says Robert Gramlich, AWEA's senior vice president, public policy. "He respected the role of states, utilities and various other stakeholders while challenging all of the players to consider new ways of opening the grid to expansion and innovation. He deserves a lot of credit for the much-needed transmission infrastructure expansion that is taking place around the country."

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Power Magazine
May 30, 2013

FERC Chair Wellinghoff Announces Resignation

Sonal Patel

Jon Wellinghoff, chair of the Federal Energy Regulatory Commission (FERC), announced on Tuesday that he would resign after a seven-year-long tenure at the gas and power market regulator.

Wellinghoff, whose term as FERC's chair ends June 30, notified the White House of his intention to resign, though reasons for his resignation were not reported. Wellinghoff is expected to remain at the helm of the regulatory body at least until a replacement has been nominated and confirmed by the Senate.

Before he was appointed FERC commissioner in 2006 and named chairman in 2009, the former Nevada energy law attorney served two terms as Nevada's first Consumer Advocate for Customers of Public Utilities and authored the first comprehensive state utility integrated planning statute.

Under Wellinghoff, FERC has tackled regulatory measures related to the integration of renewable resources, including providing a platform for the participation of demand response, energy storage, and other distributed resources in wholesale electric markets. FERC also implemented changes to boost infrastructure investment and to confront cyber attacks.

Wellinghoff oversaw the development and issuance of Order 1000, a rule that builds on the reforms of a prior rule and corrects deficiencies with respect to transmission planning processes and cost allocation methods.

Wellinghoff's departure was lamented by several environmental and renewable energy groups.

"We had heard of his intent to depart at the end of President Obama's first term, and while he certainly deserves the break we are sorry to see him go," said John Moore, a senior attorney at the Natural Resources Defense Council. "It is not exaggeration to say that Chairman Wellinghoff is responsible for a FERC that has done more to integrate renewable energy resources like wind and solar power, and also harness the potential of energy efficiency and demand response, than any of its predecessors in fulfilling the agency's duty to regulate the interstate transmission of electricity."

Rob Gramlich, senior vice president of public policy for the American Wind Energy Association (AWEA) called Wellinghoff a "pioneer and strong champion of change overseeing the U.S. electric grid. "He respected the role of states, utilities, and various other stakeholders while challenging all of the players to consider new ways of opening the grid to expansion and innovation," he said.

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Electric Light & Power

Senators say outgoing FERC chair Wellinghoff worked to transform power grid

05/30/2013

By Jeff Postelwait

Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, worked to integrate renewable energy into the power grid and protect consumers from manipulation of energy markets, according to U.S. senators commenting on Wellinghoff's planned departure.

Wellinghoff, who has served as FERC chairman since January 20, 2009, announced May 29, 2013 that he would step down as soon as a replacement is found and confirmed by the Senate.

Sen. Ron Wyden (D-Ore.), chairman of the Senate Energy and Natural Resources Committee, said Wellinghoff's tenure at FERC will be remembered for helping to make the energy sector fairer and more sustainable.

"Under Chairman Wellinghoff's leadership, FERC launched important investigations to protect consumers against traders and financial firms who manipulated energy markets." Wyden said in a statement. "While we disagreed on electric transmission siting issues, he deserves credit for championing efforts to increase America's renewable energy supply. His expertise and leadership will be missed."

Sen. Maria Cantwell (D-Wash.) said she hopes Wellinghoff's successor will continue to be a watchdog over the energy sector.

"Chairman Wellinghoff brought real leadership and vision to the FERC," Cantwell said in a statement. "He deserves tremendous credit for his efforts to protect consumers from unfair rates and market manipulators, to integrate renewable energy resources, and to transform the electric grid with 21st century technologies.

"I'm particularly pleased that the FERC is enforcing the prohibition on market manipulation that I pushed for after the West Coast electricity crisis and is going after energy market manipulators on Wall Street," Cantwell said. "I hope the next FERC Chairman will continue Chairman Wellinghoff's legacy of aggressively policing the natural gas and electricity markets with the great team he assembled."

As of press time, there is no official word of who might replace Wellinghoff.

FERC is a federal agency with jurisdiction over wholesale electricity rates, electric transmission citing, the licensing of hydroelectric facilities, natural gas pricing and oil pipeline rates.

Wellinghoff's official term expires June 30, 2013.

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Electric

SNL.com
Thursday, May 30, 2013 6:38 PM ET

NV Energy deal spurs interest in expansion of Western energy imbalance market

By Christine Cordner

MidAmerican Energy Holdings Co.'s planned acquisition of NV Energy Inc. is being seen as great news for the eventual creation of a Western energy imbalance market that expands off one proposed by the California ISO and PacifiCorp, just as the two parties are set to unveil a revised "straw man" proposal for their plan.

Bought by MidAmerican Energy in 2006, PacifiCorp in February joined with the CAISO to create a joint energy imbalance market, or EIM, by October 2014. At the time, the grid operator and the Oregon-based company were hopeful that, if the arrangement is successful, it could prompt others in the West such as NV Energy to participate in the EIM. The grid operator and NV Energy, meanwhile, have been studying transmission and generation coordination since August 2012 as California and Nevada work to improve power importing and exporting, particularly involving renewable energy.

The CAISO, in a May 30 emailed statement, did not say whether the acquisition news effectively bumped up the regional scope of the EIM. "We are excited to be working with MidAmerican Energy Holdings unit PacifiCorp on the energy imbalance market and we look forward in continuing to work with NV Energy and PacifiCorp as well as several other Western balancing authorities on the energy imbalance market and other cooperative initiatives," the CAISO said.

NV Energy did not immediately return a request for comment as to its view of the EIM, and the company to date has not filed comments on the EIM straw man proposal unveiled by the CAISO in April. However, indicating local regulatory backing similar to that seen in Oregon and California, Rebecca Wagner, a member of the Public Utilities Commission of Nevada, in a March letter called the move to a regional EIM "an important step," and she hoped the ongoing coordination study with her state would include whether to join an EIM.

Because NV Energy will become a sister company to PacifiCorp under the acquisition announced May 29, stakeholders expect what is good for the goose will be good for the gander. MidAmerican is a subsidiary of Berkshire Hathaway Inc. The transaction is expected to be completed in the first quarter of 2014.

"The MidAmerican purchase of NV Energy is a huge event. It gives the EIM currently being negotiated between the CAISO and PacifiCorp berth in Nevada and significantly broadens the CAISO's influence," Western Power Trading Forum Executive Director Gary Ackerman said May 30. "The two MidAmerican subsidiaries will not work totally independently and the policy of an energy imbalance market, which enables real-time coordination between PacifiCorp and the CAISO, will soon include NV Energy. I'm confident it will happen."

Ackerman added that he does not think PacifiCorp or NV Energy anytime soon would join the CAISO and become participating transmission owners like California utilities. "But if the EIM is a success, I think the option to join may be revisited," he said.

Carl Zichella, the Natural Resources Defense Council's director of western renewable transmission, said May 30 that if NV Energy is brought under MidAmerican's umbrella, it could "portend" its participation in the EIM or at least closer grid coordination with the CAISO.

Set to be unveiled May 31, the CAISO's revised straw man proposal will be the focus of discussion at a June 6 stakeholder meeting held at the grid operator's Folsom, Calif., headquarters. That event will be followed by stakeholder meetings on July 9 in Phoenix, Aug. 20 in Portland, Ore., and Sept. 30 again in Folsom.

Energy imbalance service helps address real-time variations in load and generation, and the CAISO already operates a real-time EIM in connection with its provision of transmission service. Resources with the ability to respond to five-minute dispatch instructions may bid available energy into that market, which establishes a locational marginal price and automatically dispatches the least-cost resources every five minutes to economically serve load while avoiding transmission congestion.

The CAISO and PacifiCorp contend that its specific regional EIM will optimize supply and demand with more dispatch precision and save costs for both parties and utility ratepayers. The CAISO in a March 13 report estimated 2017 cost savings from the EIM ranging from \$21.4 million to \$128.7 million in 2012 dollars.

While the grid operator works through another straw man proposal, California parties chiming in on FERC's review of the EIM implementation agreement have offered cautious support for the idea while also raising cost concerns. (ER13-1372)

Esther Whieldon contributed to this article.

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Megawatt Daily

May 31, 2013

MidAmerican/NV Energy deal has grid implications: analysis

The purchase of NV Energy by MidAmerican Energy Holdings could spur MidAmerican to become a bigger

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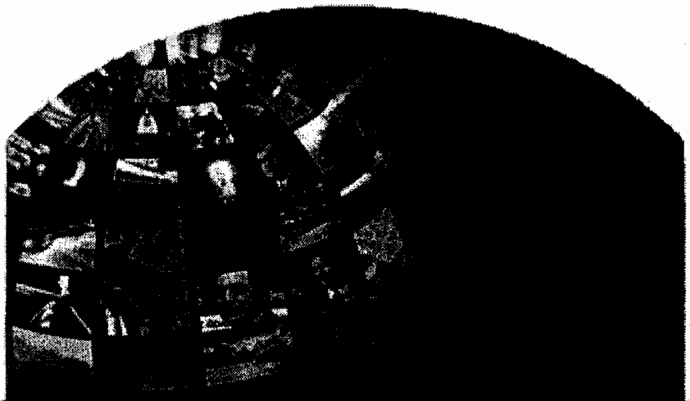

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Smart Grid Today

FERC'S NORRIS HINGES US CLIMATE GOALS ON SMART GRID

Switch to natural gas not enough to cut CO2 80% by 2050

November 7, 2013

Fracking and the new source of natural gas it unleashed on the market "changed the dynamics and the economics of our energy system dramatically," FERC Commissioner John Norris told people attending the SGIP's inaugural conference Tuesday in Palm Beach Gardens, Fla. "It made it more challenging," he added.

"Talk to folks who run the RTOs and they will tell you they thought... nothing would ever displace coal in the dispatch stack," but gas has displaced coal, he added. Before the ascent of gas, smart grid was seen as "the Christmas tree that all the other technologies have to hang on," Norris said, including "renewable energy, energy efficiency, demand-side management, aggregated DR, DG and integrating that power onto the grid."

"Then came gas," he added. "It has changed the economics for a lot of what you do," Norris said, "and the rationalization for making the investments necessary to make our system more efficient."

Fracking has at once "enabled great benefits to our society – from the manufacturing sector to the energy generation sector and many others" and displaced or discouraged "investment in some of the new technologies that we are developing," he added.

"I am concerned, because we are making long-term investments in both pipeline and generation facilities for utilization of gas for base-load or intermediate-load generation and if we are to reach this administration's goals of an 80% reduction in CO2 by 2050, from 2005 numbers, you can't have this.

"If you take the 2005 emissions of 2,381 million megatons, an 80% reduction means we have 405 million megatons of CO2 emissions in 2050. Emissions went down in 2011 to 2,166 million megatons. Of that, 1,718 were from coal and 411 were from gas.

"If we project out to the electric demand of 2050 and reach that 405-million-megatons limit or goal, we cannot even have the same amount of emissions from gas as a generation source as it was in 2011.

"The key to accomplishing that [goal for 2050] is what you're doing" in the SGIP, Norris said. "It's the investment in the development of technologies that can make our system more efficient. As I mentioned, fracking is of course a new technology that has enabled us to have this new source of gas.

QUOTABLE: Smart grid is the technology that enables all these other new technologies to work to make our system more efficient: Energy efficiency, renewable energy, demand-side management, storage of electricity, EVs. All of that is key and has to be a big factor in our energy future if we are going to reach those [CO2 emissions] goals – and mitigate climate change. – FERC Commissioner John Norris in remarks at the SGIP inaugural conference

Technology innovators are the center of the universe here, "and standards development is so critical for that continued investment – the confidence that this will pay off," he added. With "solid standards," investment in new technologies will continue "because people know there's a place for it to work" and interoperate, he added.

"We cannot get to where we need to go by 2050 without tremendous deployment of all the new technology possibilities – all the things you hang on smart grid," Norris reiterated. "And you are all critical players in that highly visible asset deployment."

FERC played support role

FERC in the last few years has "taken some strides" to help "consumers realize the value of what your technology provides," he told the audience. FERC changed the compensation scheme for DR, "recognizing the full value of demand-side management and offering that into the marketplace, to be treated the same as generation."

The commission ruled recently on "the vertical integration of renewable resources [MERS] and changing the scheduling of those resources."

And it "issued the interim rate policy, for assurance of cost recovery for the deployment of smart grid," he added. That "assures that if smart grid technology is deployed, it will be eligible for cost recovery."

But FERC is not "looking over your shoulder" at how or what SGIP is doing, Norris assured. "Having said that, I invite you to bring to my attention... any time you think we should be getting engaged."

Norris has not had "a conversation about NIST or SGIP with a fellow commissioner in over a year" and the other commissioners "have not brought it up with me," he added. FERC has "great faith in you getting this right," he told the SGIP conference attendees.

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SNL.com
Thursday, November 07, 2013 6:20 PM ET

SENATOR QUESTIONS FERC CHAIRMAN REMAINING AT AGENCY AFTER AGREEING TO JOIN LAW FIRM

By Glen Boshart

Stressing FERC's responsibility to act with "the utmost impartiality," U.S. Sen. John Barrasso, R-Wyo., is asking FERC's outgoing chairman, Jon Wellinghoff, about why he did not leave his post after an announcement was made that he will be joining a law firm that has matters pending before the agency.

In a Nov. 7 letter, Barrasso called on Wellinghoff to explain how his continued participation in proceedings that will affect his future employer's clients does not constitute a conflict of interest. "Until you do so, FERC will have difficulty in retaining the public's confidence in the integrity of its decisions," wrote Barrasso.

Wellinghoff on May 28 submitted his resignation from FERC to President Barack Obama, and his term officially expired at the end of June. However, he pledged to remain at the helm of the commission until his replacement has been seated and has continued to serve under a grace period provided by federal law that will expire once Congress adjourns its current session near the end of the year.

For a while, it appeared that Ron Binz would take on Wellinghoff's job, but he withdrew his name from consideration to be the next FERC chairman due to fierce opposition from certain industry segments and conservative political groups.

Obama has not yet named another nominee, and the possibility that he will do so in time for a new member to be confirmed and seated before Wellinghoff has to leave the agency appears to be increasingly unlikely. If he does not, either Cheryl LaFleur or John Norris would likely be appointed by Obama to head the agency either on an interim or more long-term basis since they are the two other FERC members who are Democrats.

In anticipation of Wellinghoff's departure, the law firm Stoel Rives in Oct. 21 issued a brief news release stating simply that the chairman "will join the firm upon completion of his service at FERC." Stoel Rives is particularly well known for its work on issues related to renewables and alternative energy, which are technologies that Wellinghoff strongly supports.

The problem, according to Barrasso, is that such issues frequently arise before FERC and therefore Wellinghoff's remaining at the agency following the Oct. 21 announcement raises certain questions.

"It is not clear whether you have recused yourself from all appropriate matters pending before FERC in light of your recent announcement" to join Stoel Rives, the senator wrote.

Barrasso specifically cited a news report quoting Wellinghoff as saying that he has recused himself from the very few cases before FERC in which Stoel Rives is representing a client. "However, it is not clear whether you are participating or will participate in actions such as rulemakings which apply generally," Barrasso said.

"I find the lack of transparency surrounding your recusal to be troubling," Barrasso continued. "As chairman, you are in an ideal position to influence such actions as rulemakings for the benefit of specific parties or sectors."

Barrasso therefore asked Wellinghoff "to explain, in detail, all the matters from which you have recused and will recuse yourself as well as your reasoning for not recusing yourself from any matters that would affect Stoel Rives' current or future clients."

What have others done in similar situations?

Previous FERC heads have served out lengthy lame duck periods as well. For instance, Wellinghoff's predecessor, Republican Joseph Kelliher, announced early in January 2009 that he was going to leave the agency once Obama was inaugurated later that month.

However, after Wellinghoff was appointed interim chair in conjunction with that inauguration, Kelliher continued to serve as a commissioner until he actually left the agency in mid-March. During the interim period, he recused himself from nearly all the major orders voted on by FERC, which led some industry observers to question exactly what work he was doing to justify his continuing to draw a federal paycheck. He did not agree to take another job until he left the agency and is currently an executive vice president with NextEra Energy Inc.

Kelliher's predecessor, Pat Wood, told President George W. Bush in April 2005 that he was going to leave the agency after serving as chair since September 2001 but did not leave until July 2005. He also recused himself from many votes on major orders during his lame duck period. Many FERC members who never led the agency also recused themselves from orders after announcing their departures but before actually leaving the agency.

What makes Wellinghoff's situation unique, however, is that unlike with most other departing FERC members, his acceptance of an outside job was announced before he actually left the agency.

But whether Wellinghoff did anything improper is highly questionable. The Office of Government Ethics simply requires executive branch employees seeking or having obtained an outside job to disqualify themselves from any matter "that, to his knowledge, has a direct and predictable effect on the financial interests of a prospective employer with whom he is seeking employment."

Wellinghoff has recused himself from votes on some orders since he announced his resignation, but the number of his recusals has been low compared to those of other FERC members in similar situations, possibly because Stoel Rives has been involved in relatively few recent FERC cases.

Wellinghoff did not respond to requests for comment on Barrasso's letter.

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E&E Daily

FERC: BARRASSO CHALLENGES OUTGOING CHAIRMAN ON JOB MOVE

Hannah Northey, E&E reporter

Published: Friday, November 8, 2013

Sen. John Barrasso (R-Wyo.) is pushing the outgoing chairman of the Federal Energy Regulatory Commission for assurances he'll steer clear of potential conflicts of interest in light of his plan to work for a private law firm after Congress leaves town next month.

The flap stems from Jon Wellinghoff's comments, first reported by Greenwire, that he is recusing himself from all cases involving clients of Stoel Rives, a Portland, Ore.-based law firm widely recognized for its energy law practice.

Wellinghoff said all of his actions have been cleared by FERC's Ethics Office and that Stoel Rives has "very few cases" before the agency (Greenwire, Oct. 29).

But Barrasso, a member of the Senate Energy and Natural Resources Committee, said he continues to have concerns, hinting at the increased politicization of the agency following the failed nomination of Ron Binz to replace Wellinghoff as FERC chairman. Binz, a former Colorado regulator, asked that his name be pulled from consideration earlier this fall as opposition grew on the Senate panel.

"I interpret your remarks to mean you have recused yourself from participating in contested FERC proceedings to which a Stoel Rives client is a party," Barrasso said in a letter to Wellinghoff. "However, it is not clear whether you are participating or will participate in actions such as rulemakings which apply generally."

The chairman was not immediately available for comment yesterday. FERC declined to comment on the letter.

Although Wellinghoff's term expired June 30, he has agreed to stay in his post until President Obama chooses a replacement who secures Senate confirmation. The chairman's looming departure will leave four commissioners -- two Democrats and two Republicans -- to lead the agency, members that Obama could select to lead the commission without Senate confirmation.

Wellinghoff first came to FERC to fill a vacant seat in 2006 with the backing of Senate Majority Leader Harry Reid (D-Nev.). He was reconfirmed in 2008 for a full five-year term as a commissioner, and Obama selected him in March 2009 to become chairman, a step that didn't require Senate confirmation.

An energy law attorney with 37 years of experience in regulatory, consumer and commercial law, Wellinghoff focused on matters related to renewable energy, energy efficiency and distributed generation in private practice before joining the commission.

Although some sources with cases before FERC have raised concerns about the appearance of a conflict of interest with Wellinghoff's decision to stay on, it's not clear what matters the agency will tackle before Congress leaves town next month.

FERC is scheduled to hold two meetings before the end of the year but does not comment on what issues will be addressed.

FERC's Ethics Office was not immediately available for comment, but Marc Spitzer, a former FERC commissioner and now a partner at Steptoe & Johnson, said the office's lawyers are very knowledgeable and have given him guidance on how to steer clear of conflicts in the past.

"When I was at FERC, I would seek opinions from the designated agency officer, and those rulings were always well-reasoned, and I would follow the [Designated Agency Ethics Official] rulings to avoid conflict issues," Spitzer said.

Ronald White, director of regulatory policy at the Center for Effective Government, said Wellinghoff could face conflicts with more than one case and pointed to a May 2010 report by the Congressional Research Service.

According to the report, once a federal employee in the executive branch begins "negotiating" employment with a private entity, "that employee or officer must disqualify (recuse) himself or herself from any official governmental duties, such as recommendations, advice, or decision making, on any particular matter which has a direct and predictable effect on the financial interests of that potential private employer."

"He would literally need to recuse himself from a large chunk of the business that comes before FERC," White said.

Although the possibility is seen as less likely, the White House could choose a new FERC chairman before Congress leaves town.

Names that are circulating as top contenders to lead the agency include Colette Honorable, chairwoman of the Arkansas Public Service Commission, and FERC Commissioner Cheryl LaFleur. Honorable could be tapped to join the commission if LaFleur or another commissioner is elevated to chairman.

Sources have also pointed to Norman Bay, the director of FERC's Office of Enforcement; Lynn Evans, a board member at the Tennessee Valley Authority; and Rose McKinney-James, a former commissioner with the Nevada Public Utilities Commission who is a Las Vegas businesswoman, lobbyist and renewable energy consultant.

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Electric

Megawatt Daily
November 8, 2013

UTILITIES RAISE CONCERNS OVER MISO PLAN TO THWART GAMING

Two utilities are raising concerns over how proposals by the Midcontinent Independent System Operator to prevent market gaming could harm legitimate actions in the market, according to filings with the Federal Energy Regulatory Commission on Wednesday.

The protests respond to MISO's October 16 proposal (ER14-106) to address several potential opportunities for gaming of the ISO's make-whole payments. The proposal includes placing new requirements on how much in make-whole payments a market participant can receive if it changes its offer cost data between commitment and dispatch, and creates new eligibility requirements for participants seeking make-whole payments by decreasing its ramp rate or taking other actions.

MISO is also proposing to address the potential for participants gaming make-whole payments by using "hour-to-hour changes in their day-ahead offers to receive a day-ahead schedule that is 'oscillating,' in the sense of having alternating, significantly contrasting hourly values between the hourly economic minimum limit and hourly economic maximum limit," according to MISO's filing.

Two utilities in comments November 6 raised concerns about how the proposals could impact legitimate actions taken by market participants.

While saying that it supports "the underlying philosophy" of MISO's proposal, MidAmerican Energy Company expressed concern specifically about the changes to make-whole payments from ramping, arguing that the filing assumes that "any significant change in the hourly economic maximum or minimum limit is due to gaming."

"MidAmerican is concerned that these limits may change for legitimate reasons outside the control of the market participant," noting that its offers for its wind generation assets often include "large changes in the hourly economic maximum limit from one hour to another" due to wind forecasts. "Such changes are based entirely on the nature of the resource, not on the market participant's effort to game the market."

Similarly, Consumers Energy Company, a transmission-dependent utility in Michigan, argued in its November 6 filing that generators dealing with the natural gas-electric market coordination issues could have legitimate reasons for acting in ways that MISO has raised concerns over.

"Since Consumers Energy, and many other MISO market participants, must buy their gas before they receive their day-ahead awards from MISO, it is reasonable that there will be price curve changes as potential imbalances are worked out. It would not be reasonable to exclude a resource from [Day-Ahead Margin Assurance Payments (DAMAP)] in such a case, but this result would be possible as a result of the ramp modeling Tariff revisions proposed by MISO."

DAMAP is awarded in such cases when the generator is ramping up.

Consumers Energy also raises doubts about resources using oscillating schedules to game the market, saying that such opportunities are created by issues within the day-ahead market itself. "Rather than seeking the ability to apply overly stringent offer parameter rules, in an attempt to overcome a market design flaw, MISO's focus

should be on eliminating the market design flaw that is the source of market gaming opportunities," Consumers Energy said, going on to recommend that FERC hold a technical conference on the proposed changes.

Bobby McMahon

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The Energy Daily
November 8, 2013

FERC BACKS NEW ENGLAND ISO'S TOUGHER CAPACITY RULE

BY JEFF BEATTIE

Despite complaints by market participants that the grid operator was moving too fast on the changes, the Federal Energy Regulatory Commission last week approved new rules proposed by the New England grid operator that make it more likely capacity providers will be penalized for failing to produce when the region's power system is stressed.

In the November 1 order, FERC approved a proposal from ISO New England and the New England Power Pool (NEPOOL) to change the definition of "shortage events" in the region's capacity markets because the old definition was worded in such a way that it was never invoked, effectively letting non-performing capacity providers off the hook from major fines.

Both ISO-New England and NEPOOL, which represents all major participants in New England's power markets, agreed the changes are needed because the old definition of shortage events was not triggered in past instances when the grid was clearly strained and experiencing what should have been labeled a shortage.

That failure, in turn, allowed capacity providers to escape penalties for failing to provide promised capacity because the heaviest fines are triggered during declared shortage events. That means New England's capacity markets were failing to send important signals, in the form of penalties, that more capacity in the region is needed, both parties agreed.

But while agreeing on the need to declare shortage events when the system is actually stressed, NEPOOL and ISO New England disagreed sharply on how fast the new rules should be enacted, with ISO New England saying they needed to go into effect November 3 while NEPOOL argued they should be delayed until June 2017 when current capacity agreements are due to expire. FERC sided with ISO New England, saying the changes are "critical and should be provided for immediately rather than several years in the future."

FERC's decision is part of a concerted effort by the agency and ISO New England to fix acknowledged problems with New England capacity markets, in which load-serving entities purchase the promise of future power deliveries years in advance to ensure they have adequate supply to meet future demand. The system is also designed to give generators financial incentives to begin building new power plants with sufficient lead time to serve load when it is needed.

But New England capacity markets in certain ways have not worked as intended when they were enacted in 2010, particularly in encouraging new generation. Additionally, a relatively large percentage of capacity resources, both on the supply and demand sides, have failed to perform when called upon, leading ISO New England and stakeholders to begin development this year of a new capacity payment system that would more tightly tie compensation to performance.

The newly approved shortage event rules are meant to fix the other side of the same coin—to more strictly penalize capacity providers who do not meet their obligations.

"Since the inception of the [capacity market] in 2010, there have been a number of times on the grid when conditions have become extremely tight and system operators have had to dip into reserves, but a shortage event was never triggered because the definition was too restrictive," said ISO New England in a blog post explaining its proposal to FERC.

From:	MediaDL
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Top Stories

Greenwire

FERC: WELLINGHOFF ANNOUNCES DEPARTURE; LAFLEUR TO STEP UP AS TEMPORARY CHAIRWOMAN

Hannah Northey, E&E reporter

Published: Thursday, November 21, 2013

Jon Wellinghoff, the Federal Energy Regulatory Commission's longest-serving chairman, announced today that he is officially stepping down Sunday and that Democratic FERC Commissioner Cheryl LaFleur will step in to temporarily lead the commission.

Wellinghoff, a driving force behind the Obama administration's efforts to green the electric grid, said today that he informed President Obama he will be exiting the commission Sunday. Obama has indicated he will nominate LaFleur as acting chairwoman upon his departure, Wellinghoff said.

Wellinghoff, a former Nevada consumer advocate and father of four, is heading to California to work for the Portland, Ore.-based law firm Stoel Rives LLP, widely recognized for its energy law practice.

With his wife, Karen Galatz, and two sons, Jules and Jacob, in the crowd today at FERC's monthly meeting in Washington, D.C., Wellinghoff thanked his colleagues for their hard work and bade them farewell.

"I'll miss you, and I love you all," Wellinghoff said.

LaFleur, a former New England regulator, will now lead the commission as the acting chairwoman, alongside Democratic Commissioner John Norris and Republicans Tony Clark and Philip Moeller.

The move potentially allows the Obama administration to sidestep the tricky job of nominating a new director and securing Senate support amid gridlock on Capitol Hill. That difficulty was highlighted by the publicly divisive nomination of Ron Binz, a former Colorado regulator who asked that his name be pulled from consideration for leading FERC following backlash among fossil-fuel-linked groups and a lineup of Senate and House Republicans (E&E Daily, Oct. 9).

It also quells Sen. John Barrasso's (R-Wyo.) concerns about Wellinghoff's ability to steer clear of potential conflicts of interest in light of his plan to work for a private law firm (E&E Daily, Nov. 8).

"This was the right decision," Barrasso said in a statement. "Chairman Wellinghoff should have left FERC as soon as he accepted his new job. It was completely inappropriate for him to continue to work at the FERC while continuing to influence decisions that affect his new employer."

Obama could now tap LaFleur to serve as the agency's chairwoman without Senate confirmation, or nominate someone outside the agency to serve as chairman or as a commissioner who would need Senate support.

Potential candidates, according to FERC watchers, include Colette Honorable, chairwoman of the Arkansas Public Service Commission; Norman Bay, the director of FERC's Office of Enforcement; Lynn Evans, a board member at the Tennessee Valley Authority; and Rose McKinney-James, a former commissioner with the Nevada Public Utilities Commission who is a Las Vegas businesswoman, lobbyist and renewable energy consultant.

FERC has in the past operated with only three or four commissioners, FERC spokeswoman Mary O'Driscoll said.

Wellinghoff expressed his respect and admiration for the agency's workers today and said the meeting is the commission's 999th and the agency is "batting a thousand."

Moeller reminisced about meeting the chairman when they were paired during the Senate confirmation process and Wellinghoff was scrambling to find cufflinks, and the seven years of working together that followed. "We've had quite a ride," Moeller said. "We've had our disagreements, but we haven't been disagreeable."

Reflecting on his legacy today, Wellinghoff said he's proud of fostering a pathway for the incorporation of demand-side resources like demand response and energy efficiency into the markets and implementing the far-reaching Order 1000 to bolster transmission planning and cost allocation.

As for disappointments, Wellinghoff couldn't name one.

"It's been a tremendous run at FERC over seven years, 4 ½ years I've been chairman," he said. "Obviously, I'm disappointed I'm leaving, but I think it's appropriate for everyone to move on."

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Gas Daily
November 22, 2013

WELLINGHOFF EXITS FERC; LAFLEUR TO BE ACTING CHAIR

Jon Wellinghoff, one of the highest-profile chairmen in the Federal Energy Regulatory Commission's 40-year history, is formally leaving his post Sunday, he announced Thursday at the commission's monthly meeting. He said the White House will name Commissioner Cheryl LaFleur as acting chair.

In the wake of the controversy surrounding the nomination of former Colorado regulator Ron Binz to replace Wellinghoff, and Binz's subsequent withdrawal from consideration, the White House has not yet named another candidate. The lag ensures that FERC will be left with an empty seat until sometime in 2014.

Thursday's announcement brings an end seven years on the commission for Wellinghoff, with five of those at the helm. At 1,709 days, he is FERC longest-serving chairman.

His term officially expired June 30, but he had been serving under a grace period that was set to expire with the end of the current session of Congress — likely within a few weeks depending on the legislative calendar.

The announcement also marks the end of an unusual exit strategy by Wellinghoff, which drew admonishment from a US senator and sparked questions from other observers.

The law firm Stoel Rives revealed in October that Wellinghoff would join the Oregon-based firm as a partner upon leaving the commission, which Wellinghoff had long said would be when a replacement was seated. Wellinghoff confirmed the agreement to join the law firm but said he would stay on at FERC for an indefinite period.

Senator John Barrasso of Wyoming earlier this month questioned Wellinghoff on his decision to remain in his post even though he had accepted a job elsewhere. The Republican senator specifically raised concerns about the extent to which Wellinghoff was recusing himself during his lame duck period at FERC.

In a statement following Thursday's announcement, Barrasso called it "the right decision" and said Wellinghoff "should have left FERC as soon as he accepted his new job."

"It was completely inappropriate for him to continue to work at the FERC while continuing to influence decisions that affect his new employer," Barrasso continued. His resignation "will help restore the public's confidence in the integrity of the commission's decisions and lift the cloud over the agency as a whole."

Wellinghoff and other FERC officials said the chairman was recusing himself where appropriate. And FERC ethics officer Charles Beamon late last month told Platts that recusals were necessary in cases when a company or law firm with which Wellinghoff is discussing employment is directly involved in a matter before the commission — such as an intervening party in a particular issue.

Wellinghoff's tenure at FERC has been momentous, in part due to his consistent efforts to promote energy efficiency, demand response and green energy development within the confines of the commission's normal caseload and statutory mandates.

Under his chairmanship, FERC also has aggressively pursued market enforcement cases, levying big fines and charging heavy hitters such as J.P. Morgan, Barclays, Deutsche Bank and Constellation Energy with misconduct.

Speaking with reporters following the Thursday meeting, Wellinghoff said his major accomplishments included efforts to integrate demand-side management assets into electricity markets. Another notable accomplishment, he said, was Order 1000, which addresses regional planning and cost allocation related to electric transmission infrastructure. The commission is currently in the process of implementing the landmark order.

LaFleur, a Democrat, will control the gavel presumably until a replacement is named. "I'm looking forward to a smooth transition," she told reporters Thursday, declining further comment.

Chris Newkumet

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Boston Globe

MASS. NATIVE TO LEAD FEDERAL ENERGY AGENCY

By Erin Ailworth / Globe Staff / November 21, 2013

Massachusetts native and former National Grid executive Cheryl A. LaFleur on Monday will become the acting chair of the Federal Energy Regulatory Commission, an agency spokeswoman said Thursday.

LaFleur will replace chair Jon Wellinghoff, who is leaving the commission after nearly five years at its helm. He is expected take a post at Stoel Rives LLP, a law firm headquartered in Portland, Ore.

LaFleur's promotion to head of FERC—an independent agency that regulates the interstate transmission of oil, natural gas, and electricity—is expected to be formalized shortly by the White House, said FERC spokeswoman Mary O'Driscoll.

"For all intents and purposes, she will be chairman," O'Driscoll said.

LaFleur, who earned a law degree at Harvard Law School, was born in Arlington and has a home in Wellesley. She was first appointed to the commission by President Barack Obama in 2010 and, according to her agency biography, her priorities have been to strengthening the reliability and security of power delivery systems and promoting regional planning for transmission projects.

In previous discussions with the Globe, LaFleur has emphasized the need for the nation to have a diverse power supply that includes alternative energy resources.

Erin Ailworth can be reached at erin.ailworth@globe.com. Follow her on Twitter @ailworth.

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The Energy Daily
November 22, 2013

LAFLEUR NAMED ACTING FERC CHAIR TO REPLACE WELLINGHOFF

Ending the longest chairmanship in commission history, Federal Energy Regulatory Commission Chairman Jon Wellinghoff announced Thursday he will leave FERC Sunday and that President Obama intends to tap Commissioner Cheryl LaFleur as acting chairman.

Wellinghoff's announcement at the conclusion of FERC's monthly open meeting Thursday leaves open the question of who will replace him, and whether LaFleur will become permanent chair or be replaced as chair by the future nominee.

Sources say it not common to demote an acting chairman, suggesting LaFleur has a good chance to become permanent chair if she is judged to perform well during what amounts a short-term audition before her current term ends next June.

However, past candidates for FERC vacancies have declined nominations unless they were given the chairmanship of the agency, meaning the Obama administration could have a smaller pool of candidates if the chairmanship is unavailable.

With the White House engrossed in numerous policy crises, picking and vetting a FERC nominee may be seen by the administration as a relatively low-priority item, meaning FERC could remain split at two Democrats and two Republicans for some time.

LaFleur has recently raised questions about aspects of several tough FERC enforcement actions, which may have earned her some industry support to be elevated to acting chairman.

Rumored candidates for the FERC vacancy include Arkansas Public Service Commission Chairman Collette Honorable, although her election Wednesday as president of the National Association of Regulatory Utility Commissioners suggests that is less likely. Other names mentioned include former North Carolina utilities regulator Jim Kerr and Regina Speed-Bost, a partner at Schiff-Hardin LLP.

Wellinghoff's chairmanship of 1,709 days surpasses in length the 1993-1997 chairmanship of Betsy Moler. He lingered on the commission for months this year as Obama's first choice to replace him, former Colorado utility regulator Ron Binz, ran into trouble on Capitol Hill and ultimately withdrew after Senate Republicans deemed him hostile to fossil fuels.

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THE HILL'S E2WIRE BLOG

November 21, 2013, 02:49 pm

FERC CHAIRMAN STEPPING DOWN SUNDAY

By Laura Barron-Lopez

Federal Energy Regulatory Commission Chairman (FERC) Jon Wellinghoff announced his resignation Thursday at a commission meeting. Wellinghoff, the longest-serving FERC chairman, announced he will leave his post on Sunday.

Wellinghoff first announced his decision to step down as the nation's top electric grid regulator in May but was asked by the White House to stay until they found a replacement.

He is credited with spearheading an expansion of the agency's oversight of the electric grid and various investigations into questionable trading tactics by Wall Street banks.

Wellinghoff said President Obama plans to appoint Cheryl LaFleur as his replacement, FERC confirmed.

Obama intends to name LaFleur, a current commissioner for FERC, as acting chair upon Wellinghoff's departure, a White House official said Thursday.

The administration wishes Wellinghoff the best of luck, the official added.

Stoel Rives LLP announced Wellinghoff's plans to join the law firm in October. The law group specializes in energy, environment and natural resources litigation.

Wellinghoff's decision to remain FERC chairman until the administration named a successor has drawn backlash from Sen. John Barrasso (R-Wy.)

Barrasso sent a letter to Wellinghoff earlier this month, asking him to explain how he could stay with the agency when his future clients would be affected by his decision.

"This was the right decision," Barrasso said in a statement Thursday after Wellinghoff announced his decision to resign.

"Chairman Wellinghoff should have left FERC as soon as he accepted his new job. His resignation will help restore the public's confidence in the integrity of the Commission's decisions and lift the cloud over the agency as a whole," he added.

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Greentechmedia.com

THE GREATEST HITS OF FERC'S JON WELLINGHOFF

Eric Wesoff
November 21, 2013

Jon Wellinghoff, chairman of the Federal Energy Regulatory Commission, is resigning his post after a four-year tenure marked by formative support for renewable energy, energy storage, demand response and smart grid technologies. He's speaking at GTM's U.S. Solar Market Insight event in San Diego next month.

Wellinghoff, Craig Cornelius of NRG Solar, and David Shuford of Dominion will be discussing "Tomorrow's Utility in a Distributed Generation World," as these industry thought leaders map out the future for U.S. utilities and how utility business models will shift the solar market.

It's worth hearing what regulatory bodies like FERC are thinking as they set the trajectory for the utilities in the coming distributed generation era. Here are some words from and about Wellinghoff over the last few years:

"I oversee the biggest machine in the world," he said, referring to the nationwide power grid, over which FERC has incomplete jurisdiction.

Wellinghoff was a champion of FERC decisions that helped boost the market power and viability of technologies like demand response. FERC Order 745, put into effect in 2011, has helped boost demand response revenues by requiring that grid operators like PJM pay them prices more closely matched to the wholesale market prices that generators make, for example. FERC Order 755 has allowed fast-acting DR and energy storage assets to balance grid frequency alongside natural gas turbines and other generation resources.

Wellinghoff made a presentation in 2012 that was notable for its vision of more rational energy-pricing markets and its practical graphics. "A Day in the Life of the Grid" revealed that the FERC commissioners get the smart grid and the necessity "to unleash the information and unleash the power" of the American electrical grid, as Wellinghoff put it. His presentation gave an hour-by-hour snapshot of wholesale utility pricing across the Midwest Independent System Operator (MISO) using diagrams based on Ventyx imaging software. (This is one of my favorite utility grid presentations -- and I've seen a few.)

Wellinghoff joined The Energy Gang on a recent podcast to discuss managing the creative destruction caused by solar in power markets.

"Solar is growing so fast it is going to overtake everything," Wellinghoff told GTM. If a single drop of water on the pitcher's mound at Dodger Stadium is doubled every minute, Wellinghoff said, a person chained to the highest seat would be in danger of drowning in an hour. "That's what is happening in solar. It could double

every two years," he said. As GTM Research's MJ Shiao recently noted, in the next 2 1/2 years the U.S. will double its entire cumulative capacity of distributed solar -- repeating in the span of a few short years what it originally took four decades to deploy.

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Gas Daily

November 22, 2013

FERC OPENED 24 NEW ENFORCEMENT CASES IN FY 2013

The Federal Energy Regulatory Commission's efforts to combat fraud and market manipulation in FY-13 resulted in $304 million in civil penalties and the disgorgement of about $141 million in unjust profits, FERC staff said Thursday.

The commission opened 24 new investigations in FY-13 while closing 29 other cases with either no action, a settlement or a formal enforcement proceeding, according to the staff report.

During FERC's monthly meeting, Office of Enforcement Director Norman Bay noted that the report included several examples of instances when FERC did not further pursue a particular enforcement action.

"I think that there are certain common themes that run throughout those matters that we did not pursue," Bay said. Those themes include the prompt detection of a violation, timely remediation of an issue and quick self-reporting to FERC, along with full cooperation with FERC during the investigation.

"Those factors help explain the matters that the Office of Enforcement declined. I would say that those are all consistent with what you would expect in an entity with a strong culture of compliance," Bay said.

About half of FERC's investigations in FY 2013 involved market manipulation allegations or false statements, while about a third involved alleged violations of reliability standards, according to Susan Beall, an attorney with the enforcement office.

Alleged anticompetitive conduct and behavior that threatens transparency in regulated markets made up the remainder of the agency's caseload.

Commissioner Tony Clark related that during investigations, FERC staffers often see compliance documents that "read perfectly, even when there may be some rather egregious behavior" under review.

In response, Bay said "it's the difference between walking the walk and talking the talk, and virtually every entity that we have investigated has reams of materials devoted to compliance. It's not enough to have a paper program, but what an entity has to do is strive to achieve an actual culture of compliance."

The bulk of the penalties and disgorged profits were from a July settlement, the largest in FERC history, with JP Morgan Ventures Energy. It included $285 million in civil penalties and disgorgement of $125 million in profits. The settlement followed a FERC investigation of JP Morgan's bidding practices in Midwest and California electricity markets.

JP Morgan neither admitted nor denied FERC enforcement staff's allegations as part of the settlement. And the settlement did not include individual penalties for specific JP Morgan employees, even though several were identified in the investigation.

The FY-13 total does not include $453 million in penalties and a disgorgement of nearly $35 million in profits FERC assessed in July against Barclays Bank and four traders for alleged violation of FERC's anti-manipulation rule. Barclays and the traders have challenged that penalty in federal court.

Commissioner John Norris said he hoped to work further with enforcement staff on individual trader responsibility and penalties, saying that would bring more accountability as well as "a level of intensity" against individual traders engaging in violations.

Chairman Jon Wellinghoff told reporters after the meeting that what the commission is trying to do is "provide the industry with as much information as possible about the enforcement actions, and by doing that, it'll help direct the activities of the industry."

He went on to say that "the industry continues to clamor for this information, and we think it's important to provide it to them so they have adequate direction and guidance."

According to the report, FERC staff in FY-13 conducted 29 financial, compliance and performance audits of public utilities, natural gas pipelines and gas storage companies. These audits resulted in 360 corrective-action recommendations and more than $15.4 million in directed refunds.

Brian Scheid, Bobby McMahon

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Reuters

U.S. FERC IMPOSES $304 MLN IN FINES ON ENERGY FIRMS IN FY2013

Thu, Nov 21 2013

By Scott DiSavino

Nov 21 (Reuters) - U.S. federal energy regulators imposed more than $304 million in fines against energy companies in fiscal 2013 primarily for market manipulation and false reporting activities.

It was the highest yearly total, according to Reuters data.

The Federal Energy Regulatory Commission (FERC) on Thursday said its enforcement division staff in fiscal 2013 also forced companies to disgorge an additional $141 million in unjust profits.

FERC officials were not immediately available to confirm the fines imposed were a record, but it was the highest total in Reuters data since Congress in 2005 significantly increased the penalty the commission can impose in the wake of the California energy crisis of 2000-2001.

FERC's enforcement office has become much more aggressive over the last few years, especially against market manipulation by banks and others in the power market, imposing more than $1 billion in fines since 2007.

FERC said in the report Thursday that its enforcement office focused on matters involving fraud and market manipulation, violations of reliability standards, anticompetitive conduct and actions that threaten the transparency of regulated markets.

"Enforcement does not intend to change these priorities in fiscal year 2014," FERC said.

The commission's fiscal year begins Oct. 1.

In fiscal 2013, FERC said it approved its largest settlement to date with U.S. bank JPMorgan Chase & Co for $410 million in combined civil penalties and the disgorgement of unjust profits for alleged power market manipulation and making of false statements to regulators.

FERC also said it ordered British bank Barclays Plc to disgorge $34.9 million in unjust profits and pay, with certain of its traders, more than $450 million in civil penalties for allegedly manipulating the power market in California.

Barclays has disputed the penalty, and FERC has sued the bank in federal court in California to recover the monies.

In addition, FERC ordered a unit of UK oil company BP PLC to pay a $28 million civil penalty and disgorge $800,000 in unjust profits for allegedly manipulating the natural gas market. BP is fighting the fine.

FERC said its enforcement office staff opened 24 investigations in fiscal 2013 compared to 16 in fiscal 2012. Of the investigations opened in 2013, the commission said 11 involve market manipulation or false statements.

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Electricity Daily

FERC LAYS OUT ITS ENFORCEMENT RECORD

22Nov2013

By Kennedy Maize

November 22, 2013 – The Federal Energy Regulatory Commission's enforcement office in fiscal year 2013 reached settlements of civil penalties totaling more than $304 million and disgorgement of nearly $141 million in "unjust profits," according to a report by the office released during yesterday's monthly commission meeting. Norman Bay, head of the Office of Enforcement, said the report provides guidance to those the commission regulates, and transparency into the policies and practices of the enforcement office.

The report comes as criticism has been leveled at FERC's enforcement actions for lack of transparency and unclear guidance as to what constitutes market manipulation. At this week's meeting of the National Association of Regulatory Utility Commission, a former FERC chairman and a former general counsel agree with Harvard economist William Hogan that the agency's enforcement program is so opaque that it threatens competitive markets. Joseph Kelliher, a former chairman who now works for NextEra Energy, told a NARUC panel that his experience with the private sector has changed his view of FERC's enforcement policies and practices. "It's much harder to comply than I thought," he said, noting that the FERC policy depends on many undefined terms, such a "strong compliance culture." William Scherman, former FERC general counsel, told the panel that the commission has been "sprinkling Enron dust" on marketers and has offered no coherent theory of what constitutes market manipulation.

At the FERC meeting, Bay stressed that one way to understand the way his office views market manipulation is in the report's discussion on cases where no action was taken. He stressed in cases where FERC chose not to pursue further action, there was "prompt detection and remediation" by the regulated entity, there was "little harm," and that the "conduct underlying the intervention was unintentional." All this adds up to "what you expect to see in an entity that has a strong culture of compliance," said Bay.

Among the highlights in the "Report on Enforcement":

—FERC has filed in federal district court in California to uphold the agency's proposed fine of $435 million against Barclays Bank and disgorgement of $18 million in "unjust profits" and interest. Barclays, atypically, refused to settle with FERC, forcing the agency to go to the courts for a judgment.

—The commission approved a settlement with JP Morgan concerning trades in California and the Midwest. The company settled for $285 million in civil penalties and disgorged $125 million. According to FERC, "the company admitted the facts set forth in the agreement," but "neither admitted nor denied the violations." JP Morgan also agreed to "waive financial claims against the California Independent System Operator Corp."

—During the fiscal year (which ended September 30, 2013), the office "completed 29 financial and operational audits of public utilities and natural gas pipelines covering a wide variety of topics." As a result, said FERC, the agency made 360 recommendations for correction action and directed $15.4 million in refunds.

In other action yesterday, FERC gave final approval to the North American Electric Reliability Corp.'s version 5 of its Critical Infrastructure Protection reliability standards. The final rule, said FERC, "also approves 19 new or revised definitions associated with the CIP version 5 standards for inclusion into the glossary of terms used in NERC reliability standards." But the commission also proposed a rule remanding to NERC its proposed revisions to the "transmission operations" and "interconnection reliability operations and coordination reliability standards." FERC says the remand comes because "NERC proposed revisions that would no longer require entities to plan to operate within all system operating limits…."

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The Energy Daily

November 22, 2013

FERC RAISES RELIABILITY, OPERATING ISSUES WITH NERC RULE CHANGES

BY JEFF BEATTIE

Saying the proposals would create "reliability gaps" and potentially allow utilities to wander outside "system operating limits," the Federal Energy Regulatory Commission Thursday voted to order the North American Electric Reliability Corp. to revamp two changes proposed by the grid reliability watchdog to critical reliability standards related to transmission interconnection and operations.

At its monthly public meeting, FERC approved another standard proposed by NERC governing identification of critical energy infrastructure assets and development of plans to protect them from cyber-attacks and other security threats. But at the same time FERC required several changes to those standards, known as Version 5 Critical Infrastructure Protection (CIP) Reliability Standards, calling key language in them "unduly vague and ambiguous."

"There is a common element that is running through these orders today," FERC Chairman Jon Wellinghoff said during Thursday's meeting. "Under [the Federal Power Act], the commission must ensure reliability standards are clear and enforceable. This obligation requires us to remand or question those standards that may be unclear or that may create gaps in reliability, as we do today...."

In the proposed remands to NERC—which FERC issued in the form of a notice of proposed rulemaking—the commission acknowledged that NERC's proposed changes provide certain "organizational and administrative improvements" to NERC's existing Transmission Operations (TOP) and Interconnection Reliability Operations and Coordination (IRO) standards.

But the commission also flagged certain significant new problems, including that NERC's proposed revisions "create reliability gaps in the standards that are critical to the reliable operation of the bulk power system," according to a FERC staff presentation Thursday.

"For example, [FERC's proposed remand] indicates that NERC's proposed revisions would no longer require entities to plan to operate within all system operating limits," staff said.

Staff did not elaborate during Thursday's meeting, and FERC's decision explaining its proposed remand of the NERC changes had not been posted as of press time.

And while FERC approved the latest version of NERC's CIP standards, it directed NERC to change or remove language that requires jurisdictional entities to implement 17 requirements in a manner to "identify, assess and correct" deficiencies. FERC said that phrasing was "unduly vague and ambiguous."

FERC also directed NERC to create new reliability standards addressing risks posed by "transient devices" that could contact the bulk power system, such as thumb drives and laptop computers.

FERC's actions accentuate its occasionally uneasy relationship with NERC, although the two entities are required under a law passed by Congress in 2005 to work together to enforce grid reliability rules that law made mandatory for the first time.

Under the law, NERC sets mandatory reliability rules but can delegate certain responsibilities to regional reliability groups, such as the Florida Reliability Coordinating Council and the Northeast Power Coordinating Council. FERC has oversight of NERC's work, including reviewing NERC's development of reliability rules and issuance of penalties for rule violations. FERC at times has pushed NERC to toughen its rules, oversight or penalties, and NERC officials at times appear to have chafed under FERC oversight.

The relationship hit a nadir May 2012 when a FERC staff audit criticized parts of NERC's management, bookkeeping and operational focus. FERC and NERC staff later accused each other of unwillingness to work out the two sides' differences, as is common in FERC audits. Though the two sides began litigating the matter in an unusual paper hearing, they reached a settlement in the matter last January.

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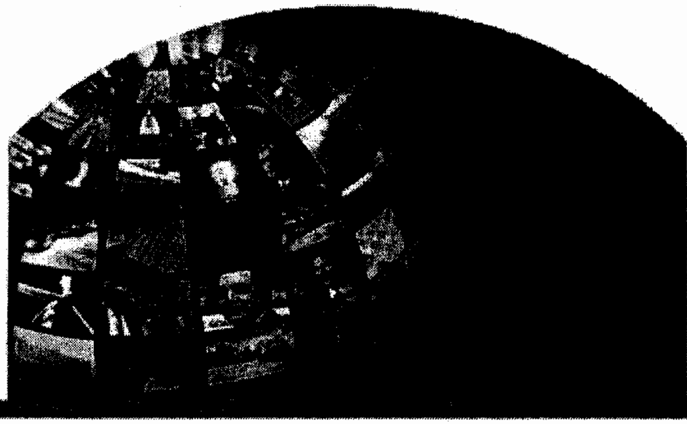

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Top Stories

CQ Roll Call
October 21, 2013

WELLINGHOFF MAY DEPART FERC SOONER RATHER THAN LATER; VITTER BLOCKS ENERGY NOMINEE

by Geof Koss, CQ Roll Call

Outgoing FERC Chairman Jon Wellinghoff may be stepping down from the commission before a replacement is in place, a soon-to-be colleague tells CQ Roll Call's Emily Holden.

Without a new commissioner in place, the five-member panel would be split, 2-2, a possibility that has some in industry worried about speedy approval of applications for pipelines and liquefied natural gas export facilities. President Barack Obama's nominee for the spot, Ron Binz, backed out last month in the face of heated conservative opposition, and the administration has yet to name a new pick.

A statement from the law firm Stoel Rives LLP said Wellinghoff will start work "upon completion of his service at FERC." But Greg Jenner, a partner and co-chair of the Energy Initiative, said Monday that Wellinghoff has indicated that "one way or another" he "probably will not stay through the end of the year." FERC spokeswoman Mary O'Driscoll said Monday she could not respond to the comments.

Wellinghoff announced his plans to resign in late May for a term that officially expired June 30, but said early on that he intended to remain in the position until a nominee was confirmed. He can legally hold the chairmanship until a successor is appointed and confirmed, but he cannot serve beyond the current congressional session, which ends when the chambers adjourn for the holidays.

The White House did not respond to a request for comment on the timing of a new nominee, but industry officials have pegged Colette Honorable, chairman of the Arkansas Public Service Commission, as a likely possibility.

While Binz would have replaced Wellinghoff as chairman, some observers see a currently serving Democratic commissioner, Cheryl LaFleur, taking over as chairman. John Norris, the other Democrat on the five-person panel, was considered a front-runner for the spot before publicly accusing Obama of passing him over for the nomination at the recommendation of Senate Majority Leader Harry Reid. Norris claimed Reid, D-Nev., thought he was too "pro-coal."

Wellinghoff will split his time between Stoel Rives' offices in San Francisco and Washington, D.C. The firm has almost 100 attorneys focused on energy law, according to its web site.

Vitter Blocks DOE Nominee. Sen. David Vitter, R-La., today announced a hold on Elizabeth Robinson to be undersecretary at the Energy Department until he receives answers about her current job as NASA's chief financial officer.

In a letter to Robinson, Vitter outlines a list of questions about contracting delays he says have cost hundreds of jobs at New Orleans Michoud Assembly Facility.

"Under the Obama administration, NASA has been stalling on a job creating project at the Michoud Assembly Facility in New Orleans for no apparent reason," Vitter said in a statement. "Ms. Robinson needs to answer questions about why they've delayed the project, and other questions about NASA's operations before she leaves her job overseeing their finances."

Robinson's nomination was approved by the Senate Energy and Natural Resources Committee earlier this month.

Thanks to Emily Holden for her contributions.

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Gas Daily
October 22, 2013

FERC CHAIRMAN WELLINGHOFF TO JOIN LAW FIRM UPON EXIT

Chairman Jon Wellinghoff of the US Federal Energy Regulatory Commission will join the law firm Stoel Rives upon leaving the commission, the firm announced Monday.

Wellinghoff told President Barack Obama in May that he would step down as FERC chair once a replacement is confirmed by the Senate. A statement from the firm Monday he said would join the firm "upon completion of his service at FERC."

Alan Merkle, chairman of Stoel Rives, said that Wellinghoff is a "terrific fit" for the firm, particularly in the renewable energy realm and in helping clients work on the cutting edge of energy. Wellinghoff will be based in the firm's San Francisco office, he said.

"I couldn't be more excited to have the chairman joining us," Merkle said Monday, calling him a "tremendous thought leader and a very good human being."

Merkle declined, however, to discuss what Wellinghoff would do specifically once he arrived at the firm, given that he is still serving as FERC chairman. Since he announced his resignation, FERC officials have said that Wellinghoff is recusing himself from matters where appropriate and complying with applicable ethics standards.

While his term technically expired at the end of June, Wellinghoff is allowed to serve until the current session of Congress ends, which could leave FERC with only four commissioners until a new commissioner can be nominated and confirmed. Former Colorado regulator Ron Binz had been nominated to replace Wellinghoff at FERC, but he withdrew his name from consideration earlier this month after strong pushback from conservative groups and some lawmakers.

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009 and presided over major rulemakings on transmission planning and cost allocation, renewable energy, conservation and demand response. His tenure also includes aggressive monitoring and investigation of energy market manipulation and restructuring of the commission's offices to emphasize infrastructure protection and policy and innovation.

A FERC spokesman declined to comment, and Wellinghoff could not be reached for comment.

Bobby McMahon

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The Energy Daily
October 22, 2013

WELLINGHOFF TO JOIN STOEL RIVES; FERC DEPARTURE DATE UNCLEAR

Outgoing Federal Energy Regulatory Commission Chairman Jon Wellinghoff will join Stoel Rives LP when he leaves the commission, the Portland, Ore.-based law firm announced Monday.

However, it is not clear when Wellinghoff will leave FERC nor who will replace him.

President Obama has not named a successor to Wellinghoff since his previous nominee for FERC chair, former Colorado utility regulator Ron Binz, withdrew his name from consideration October 1 in the face of opposition from Senate Republicans and at least one key Democrat.

When he announced plans in June to leave FERC, Wellinghoff said he would stay until a successor was confirmed by the Senate. Sources say they expect him to leave around Thanksgiving, perhaps to be replaced by a sitting FERC commissioner who might be named acting or permanent chair by the White House—an

appointment that does not need Senate confirmation. That would leave the commission to operate with four members until a new nominee is confirmed.

In a brief interview Monday, Robert Van Brocklin, a managing partner with Stoel Rives, said only that he will know more about Wellinghoff's start date with the firm "in the next few weeks."

While Wellinghoff at FERC championed renewables and energy efficiency, Van Brocklin said he expects Wellinghoff to engage in a "fairly broad" range of energy legal work for Stoel Rives LP, a 375-attorney firm with offices in 12 cities that has a diverse client base, including independent power producers, renewable developers and mining, oil and natural gas firms.

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Las Vegas Review Journal

CHAIRMAN OF FEDERAL ENERGY REGULATORY COMMISSION TO JOIN PORTLAND-BASED FIRM

October 21, 2013 - 2:43pm

WASHINGTON — Jon Wellinghoff, a Nevada lawyer and energy expert who is completing almost five years as chairman of the Federal Energy Regulatory Commission, is poised to join a Portland-based law firm.

Stoel Rives LLP announced Monday that Wellinghoff will join the firm "upon completion of his service" at the agency that regulates the interstate transmission of electricity, oil and natural gas. Wellinghoff submitted his resignation on May 28, but no date has been set for his departure.

Wellinghoff's term expired in June but he agreed to remain as chairman until a new chairman was in place. The White House's choice, Coloradan Ron Binz, withdrew last month after his nomination was opposed by Republicans including Nevada Sen. Dean Heller, and some Democrats from coal-producing states. A new nominee has not been named.

Stoel Rives is a business law firm with nearly 400 attorneys operating from 11 offices in seven states and Washington D.C. Wellinghoff will be based in the San Francisco office but will likely spend significant time in Washington, the firm said.

Wellinghoff joined FERC in 2006 as one of five commissioners, and was named chairman after the election of President Barack Obama and at the recommendation of Sen. Harry Reid, D-Nev. As FERC chairman, Wellinghoff promoted policies that encouraged expanded use of renewable energy and energy efficiency.

He grew up in Reno and earned an undergraduate degree from the University of Nevada, Reno. He specialized in energy law in the state for more than 30 years.

Wellinghoff by law must leave FERC by the end of this year's congressional session, expected in December. Citing a partner at Rives Stoel, Congressional Quarterly reported Monday Wellinghoff may depart even sooner. A FERC spokeswoman said she could not comment.

Contact Stephens Washington Bureau Chief Steve Tetreault at stetreault@stephensmedia.com or 202-783-1760. Follow @STetreaultDC on Twitter

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The Oregonian

STOEL RIVES SNAGS TOP U.S. ENERGY REGULATOR TO JOIN LAW PRACTICE

Ted Sickinger| tsickinger@oregonian.com By Ted Sickinger| tsickinger@oregonian.comThe Oregonian
Email the author | Follow on Twitter
on October 21, 2013 at 10:30 AM, updated October 21, 2013 at 3:07 PM

Rives.Ted Sickinger/The Oregonian

Portland-based law firm Stoel Rives is bolstering its energy practice by bringing on a significant new name in the business: Jon Wellinghoff, the outgoing chair of the Federal Energy Regulatory Commission.

The firm said Monday that Wellinghoff will join Stoel Rives when he completes his federal service. Wellinghoff submitted his resignation on May 28, but no date has been announced for his departure from FERC.

Stoel Rives is historically strong in the energy field, but has seen a significant string of recent departures, including renewable energy lawyers Steven Hall, Bill Holmes and Teresa Hill, as well as energy finance specialist David Benson and infrastructure expert David Hattery. Most of those lawyers left for firms with a large national presence. The firm is also looking at the retirement of one of its senior energy partners, Marcus Wood.

Bob Van Brocklin, Stoel Rives' managing partner, said the firm still had dozens and dozens of lawyers in the energy practice, and Wellinghoff's choice to join the firm is "a reconfirmation that we're a leader in this practice area."

Wellinghoff will be based in San Francisco, but spend significant time in Washington, D.C., Van Brocklin said. While he doesn't come with an established roster of clients, his resume and access in Washington, D.C., make him a potential rainmaker.

Wellinghoff was first appointed as a Democratic member of FERC by President George W. Bush in 2006. He was named chairman of the commission by President Barack Obama in 2009.

Well-known as a renewable energy advocate, he served two terms as the state of Nevada's first utility customers advocate. He wrote that state's first integrated planning statute for utilities and was the primary author of its renewable portfolio standards.

At FERC, he has championed demand response, opening wholesale electric markets to renewable resources, and various forms of distributed resources including energy efficiency, local storage systems and plug-in electric vehicles.

-- Ted Sickinger

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Greenwire

FERC: OUTGOING CHAIRMAN TO JOIN LAW FIRM

Hannah Northey, E&E reporter

Published: Monday, October 21, 2013

Outgoing Federal Energy Regulatory Commission Chairman Jon Wellinghoff announced today that he will join Portland, Ore.-based law firm Stoel Rives LLP after he wraps up nearly seven years at the agency.

Wellinghoff, a driving force behind the Obama administration's efforts to green the electric grid, will work out of the firm's offices in San Francisco and Washington, D.C., upon completing his work at the commission.

Stoel Rives is widely recognized for its energy law practice and has nearly 400 attorneys in 11 offices in seven states, according to the firm's website. Clients include financial institutions, public and private utilities, energy and renewable energy companies, developers, manufacturers and retailers.

Wellinghoff, a former Nevada consumer advocate, announced his resignation from FERC in May, but it's not yet clear when he will leave the agency (Greenwire, May 29).

Wellinghoff has said he will stay in his post until President Obama taps a replacement and secures Senate confirmation, a process that was complicated when Obama's nominee, former Colorado regulator Ron Binz, asked earlier this month for his name to be removed from consideration.

Binz cited a deadlocked Senate panel and stiff opposition from right-wing groups that turned the confirmation process into a "blood sport" (Greenwire, Oct. 1). Sources have pointed to Colette Honorable, chairwoman of the Arkansas Public Service Commission, and FERC Commissioner Cheryl LaFleur as top contenders to either sit on the commission or lead the agency.

Wellinghoff first came to FERC to fill a vacant seat in 2006 with the backing of Senate Majority Leader Harry Reid (D-Nev.). He was reconfirmed in 2008 for a full five-year term as a commissioner, and Obama tapped him in March 2009 to become chairman, a step that didn't require Senate confirmation. His current term expired June 30.

An energy law attorney with 37 years' experience in regulatory, consumer and commercial law, Wellinghoff focused on matters related to renewable energy, energy efficiency and distributed generation in private practice before joining the commission.

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SNL.com

Monday, October 21, 2013 4:55 PM ET

OUTGOING FERC CHAIRMAN TO JOIN LAW FIRM

By Glen Boshart

Outgoing FERC Chairman Jon Wellinghoff will be joining a law firm that has been recognized for its work regarding renewable and alternative energy once he departs the agency, presumably later in 2013.

Wellinghoff submitted his resignation to President Obama on May 28. However, the man Obama nominated to replace Wellinghoff, Ron Binz, withdrew his name from consideration after running into fierce opposition from certain industry segments and conservative political groups.

Obama has not yet named another nominee, and Wellinghoff has pledged to remain at the helm of the commission until his replacement has been seated. However, he may be forced to leave sooner than that if a new commissioner has not been confirmed by the Senate before the end of the year. Wellinghoff's term at the agency officially expired June 30, but he has continued to serve pursuant to a grace period that lasts only until Congress adjourns its current session.

If at that time a new FERC member has not been confirmed, Obama would appoint an existing FERC member to take over as chairman, either on an interim or a more long-term basis. The two other Democrat FERC members are Cheryl LaFleur and John Norris, so one of them would most likely be that appointee.

In anticipation of his departure, Wellinghoff agreed to join the law firm Stoel Rives. A brief news release issued by that firm Oct. 21 stated simply that Wellinghoff "will join the firm upon completion of his service at FERC."

According to the release, Stoel Rives is "widely recognized for its energy law practice," boasting close to 100 attorneys practicing in the field. It also "has been recognized as one of the nation's best law firms for renewables & alternative energy by independent researcher Chambers and Partners for four consecutive years."

Wellinghoff has been a strong supporter of demand response, energy efficiency and alternative energy resources, including distributed generation, since joining the agency in July 2006 and being appointed its chairman in March 2009.

Before his stint at the agency, Wellinghoff was an energy law attorney focusing exclusively on client matters related to renewable energy, energy efficiency and distributed generation. He also served two terms as Nevada's first consumer advocate for customers of public utilities and authored the first comprehensive state utility integrated planning statute. In addition, he was the primary author of Nevada's renewable portfolio standard law.

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Transmission Hub

WELLINGHOFF TO JOIN ENERGY PRACTICE AT LAW FIRM OF STOEL RIVES

FERC chairman to join law firm before year-end

10/21/2013By Carl Dombek

FERC chair Jon Wellinghoff will join the Portland, Ore.-headquartered law firm of Stoel Rives upon completion of his service at FERC, the law firm announced Oct. 21.

Wellinghoff submitted his resignation from the commission on May 28 but no date has been announced for his departure. At the time of his resignation, Wellinghoff said he would continue to serve until a new chairman was confirmed, but the grace period for chairman and commissioners to stay in posts that have passed the end of their appointment ends when the Congressional session expires.

He will join nearly 100 attorneys in Stoel Rives' energy practice and will split his time between the firm's offices in Washington, D.C., and San Francisco. The firm also has energy practice attorneys in Seattle, Portland, Sacramento, San Diego, Salt Lake City, and Minneapolis in areas including energy transmission services, energy development, hydro power, and renewable energy, among others, according to its website.

Wellinghoff will not be able to appear before FERC in an official capacity during a one year "cooling off" period following his departure.

Wellinghoff was not available for comment about the announcement.

Wellinghoff was appointed to FERC in 2006 by President George W. Bush, and appointed to chairmanship by President Barack Obama on Mar. 19, 2009.

A 1975 graduate of Washington, D.C.'s Antioch School of Law, Wellinghoff practiced law in Nevada for more than 30 years and specialized in the practice of energy law with a focus on renewable energy and energy efficiency. He was the primary author of Nevada's renewable portfolio standard (RPS), one of two state RPS programs to receive an "A" rating from the Union of Concerned Scientists, according to his biography on the FERC website.

Wellinghoff's priorities at FERC included opening wholesale electric markets to renewable resources and providing a platform for participation of demand response and other distributed resources in wholesale electric markets, including energy efficiency and local storage systems, such as those in plug-in hybrid and all electric vehicles, according to FERC.

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The Energy Daily
October 22, 2013

FERC FINES EXELON FOR PHANTOM POWER FLOW SCHEME IN CALIFORNIA

BY GEORGE LOBSENZ

In its third enforcement action targeting the same kind of phantom power flow scheme in California, the Federal Energy Regulatory Commission Friday fined Exelon $500,000 and ordered disgorgement of $145,982 in unjust profits earned by a former Constellation unit through phony electricity deals that called for sending power into and out of the state to make money on price spreads between import and export locations.

While Exelon inherited the enforcement problem when it bought Constellation last year, the commission also rapped Exelon officials for incorrectly telling FERC staff that the California Independent System Operator (CAISO) supported closing the case without any penalty. Exelon said it made the incorrect statements by mistake, prompting FERC to take away a potential cooperation credit that might have reduced the utility's fine.

FERC's enforcement action over the scheme by the now-defunct Constellation Energy Commodities Group LLC (CECG) marked the third time in the last year that the commission has penalized electricity market players for bogus "wheeling through" power transactions in California during 2009 and 2010.

The commission, which recently beefed up its capability to analyze sophisticated power market trading, previously fined Deutsche Bank and Gila River LLC, a merchant generator, for scheduling phony deals to send power in and out of California, though they and CECG all used different mechanisms to make money.

In the case of CECG, FERC in an enforcement order issued late Friday said the plan was to make money by capitalizing on the price spread between the location where power was imported into California and the location where it exited the state.

FERC noted that CAISO's tariff requires that a company scheduling a wheeling-through transaction in California bring in power from a resource outside the state for delivery to a load in another state.

"CECG, however, was not wheeling power and lacked a resource or a load outside CAISO for these wheeling through transactions," FERC said.

Rather, CECG's trading team looked for interties into and out of the CAISO system where price spreads were large enough to cover its transmission costs and attendant charges and fees. CECG designated its bids as wheeling through transactions so that if CAISO awarded CECG's bid, it would award both intertie bids—at the import point and the export point—and CECG would then capture the price spread between them.

"If CAISO awarded CECG's bids, CECG would then schedule transmission outside of CAISO from the CAISO export point back to the import point, forming a circular schedule," the commission said.

"CECG profited from the wheeling through transactions because it was awarded the bid only when the price at the import point (sale) was greater than the price at the export point (purchase) and because it bid a spread great enough to cover its costs."

Over a two-month period from Jan. 22, 2010, through March 24, 2010, CECG bid its circular scheduling strategy nearly every hour of every day, and CAISO awarded CECG's bids on 19 days.

After the CAISO market monitor sniffed out the strategy and told CECG its actions violated CAISO's tariff, CECG stopped the bidding strategy.

Exelon subsequently admitted that CECG's actions violated FERC regulations prohibiting electricity sellers from submitting false or misleading information to independent system operators such as CAISO.

FERC took action against a similar phantom power flow scheme in January 2013 when it imposed a $1.5 million fine on a trading unit of Deutsche Bank for scheduling bogus wheeling through transactions in California to make money off associated financial positions in derivative markets reflecting congestion on the CAISO grid.

Deutsche Bank allegedly made money-losing transactions in physical electricity markets to benefit, by a greater amount, positions in CAISO-run congestion revenue rights (CRR) markets.

FERC said the bank's energy traders carried out a manipulation scheme between Jan. 29, 2010, and March 24, 2010, to assure the continued profitability of CRR positions held by the company at the so-called Silver Peak intertie, a grid interface between Nevada and California.

The scheme, which was aimed at reducing congestion at the Silver Peak intertie, involved scheduling power flows into CAISO at the so-called Summit interchange and then exporting the power through Silver Peak, with those increased exports effectively reducing import congestion.

However, FERC investigators said they learned that Deutsche Bank was not wheeling power into and out of the CAISO system to serve real customers, as was legally required. Instead, the bank's traders simply were buying power on the neighboring grid system of Sierra Pacific Power, sending it through the CAISO system and then scheduling it to return to the Summit interchange through the Sierra Pacific system, FERC said.

In the case of Gila River, FERC in November 2012 imposed a $2.5 million fine and ordered the merchant power generator to disgorge more than $911,000 in unjust profits to settle admitted violations of the agency's

anti-manipulation rules in which it scheduled phantom power flows in California so it could increase profits on power sales into the state from its big power plant in Arizona.

FERC said from July 2009 until October 2010 Gila concocted false schemes to wheel power into and out of California to artificially reduce congestion or affect prices at the so-called Palo Verde intertie and other import points into CAISO's grid, thus increasing its power sales into California or getting a better price in those sales.

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EXELON TO PAY $646K TO SETTLE FERC ALLEGATIONS

FERC alleged that Baltimore-based arm gave wrong information to a California grid operator
By Jamie Smith Hopkins, The Baltimore Sun

5:27 PM EDT, October 21, 2013

Exelon agreed to pay about $646,000 to settle a federal regulator's allegations that its Baltimore-based Constellation energy commodities group gave wrong information to a grid operator, an error the company called inadvertent.

The settlement, made public on Friday, includes a civil penalty of $500,000 and giving up $145,928 in "unjust profits," plus interest, according to the Federal Energy Regulatory Commission.

Lawrence McDonnell, a Constellation spokesman, said the settlement involved transactions in early 2010 that were "the result of Constellation's misunderstanding" of the California Independent System Operator's manual compared with its tariff.

"There are no allegations that Constellation intentionally entered into inappropriate transactions or entered into these transactions for any manipulative purpose," McDonnell said in an email.

But the energy regulatory commission said in its filing that Exelon "twice incorrectly asserted" that the grid operator favored closing the investigation without a fine. Exelon told the commission that the first statement was made in good faith and the second was an error.

"In light of these facts, we remind all subjects under investigation of the importance of candor and accuracy," the commission wrote.

The settlement pales compared with Constellation's $245 million fine and disgorgement last year to resolve the agency's allegations involving energy market manipulation. The amount was a record at the time.

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EXELON TO PAY $600K TO SETTLE CONSTELLATION CASE IN CALIF.

Reuters

11:06 AM CDT, October 21, 2013

Exelon Corp. has agreed to pay more than $600,000 to settle allegations that its Constellation Energy Commodities Group submitted false information to the operator of the California power grid.

In an order issued on Friday, the Federal Energy Regulatory Commission said the activity occurred from January through March 2010, when Constellation was an independent company. Exelon took over Constellation in 2012.

Exelon will pay a $500,000 civil penalty and give up $145,928, plus interest, in "unjust" gains, the order said.

The Office of Enforcement at FERC said Constellation had violated federal regulations by submitting bids and engaging in transactions incorrectly designated as "wheeling through" in California.

Wheeling through means a company moves power through California from a source outside the state to another point outside the state. FERC said Constellation, however, lacked a point outside California to deliver the power to.

Companies participating in power markets need to identify their transactions properly, in part so grid operators can keep an accurate count of how much power is flowing into and through the grid.

The FERC Office of Enforcement said it had started investigating Constellation's activities after a referral by the market monitor at the California Independent System Operator, the state's power grid operator.

Exelon admitted to Constellation's violations and agreed to pay the penalties, the order said.

FERC has become more aggressive in pursuing market violations and has issued more than $1 billion in fines since the Energy Policy Act of 2005 significantly increased the penalty the commission can impose to $1 million per day per violation from $10,000.

In 2012, FERC imposed one of its biggest fines -- $135 million -- on Constellation for violating power market rules in New York and PJM, the old Pennsylvania-New Jersey-Maryland power grid, in 2007-2008, and forced it to give up $110 million in unjust gains. The ruling came before the company's merger with Exelon.

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Megawatt Daily
October 22, 2013

FERC FINES EXELON FOR INACCURATE INFORMATION

Federal energy regulators have approved a deal with Exelon wherein the company agreed to pay more than $645,000 in penalties and disgorgement for providing false information to the California Independent System Operator in 2010.

Under the agreement, Exelon admitted that Constellation Energy Commodities Group, a subsidiary, violated federal and market rules when it submitted bids that were improperly designated as "Wheeling Through" transactions, according to the Federal Energy Regulatory Commission's October 18 order approving the agreement.

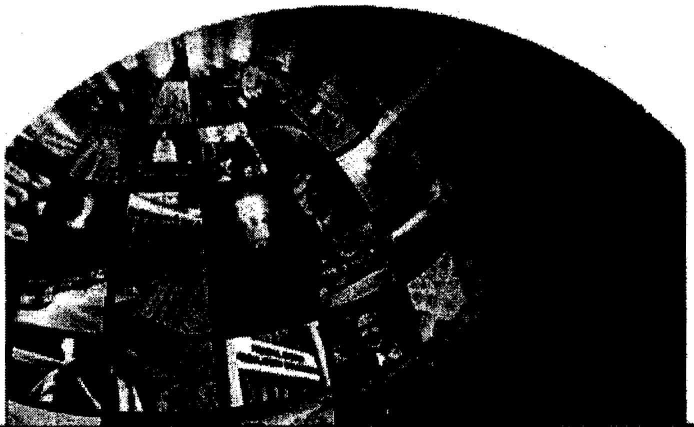
Cal-ISO rules require that a Wheeling Through transaction has "a resource outside of CAISO and a Load outside of CAISO," FERC said. But Constellation, the commission found, "was not wheeling power and lacked a resource or a Load outside CAISO for these Wheeling Through transactions."

As to why Constellation would do this, the settlement attached to the order alleges that Constellation during the first months of 2010 "looked for CAISO intertie balancing authority areas where price spreads were large enough to cover the transmission costs and attendant charges and fees." If Cal-ISO awarded Constellation's bid for a Wheeling Through transaction, "it would award both intertie bids -- at the import point and the export point -- and [Constellation] would then capture the price spread between them."

According to the order, Exelon admitted that it violated commission rules requiring market participants to provide accurate information to ISOs. FERC also said in the order that Exelon during the investigation "twice incorrectly asserted to staff that CAISO supported closing the investigation without penalty," noting that the company did not receive a credit for cooperation that could have reduced its penalty.

Exelon agreed to pay a civil penalty of $500,000 and almost $146,000 plus interest in disgorgement. The settlement also requires that Exelon perform compliance reporting.

From: Media DL
Sent: Monday, April 14, 2014 11:56 AM
To: NewsDL
Subject: April 14 newsclips



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Top Stories

Inside FERC
April 14, 2014

FERC MOVES QUICKLY TO PROTECT SENSITIVE INFORMATION IN RESPONSE TO CALLS FROM SENATORS, DOE IG

Coming soon to FERC: more documents labeled "For Your Eyes Only."

In the face of strong pressure from Capitol Hill, FERC has launched a multi-pronged effort to enhance its protections for sensitive information about the energy system, a process which could lead to a sea change in how it handles such documents.

At a standing-room-only hearing Thursday, Acting Chairman Cheryl LaFleur told members of the Senate Energy and Natural Resources Committee that FERC would "meticulously" follow the recommendations outlined in an April 9 alert issued by DOE Inspector General Gregory Friedman. The alert found multiple instances of concern related to how FERC treated "modeling studies exposing certain power grid vulnerabilities" as well as "non-public information" about an April 2013 attack on Pacific Gas & Electric's Metcalf substation near San Jose, California.

The IG recommended that FERC "move immediately" to search for, classify and secure the information in question, while at the same time ensuring that "all current and former handlers of the material are fully apprised and acknowledge their duty to protect all classified information."

While stating that its review of the situation is still preliminary, the DOE IG found that "at least one electric grid-related presentation" should have been classified from the time of its creation. This presentation, the IG said, was viewed and handled by FERC staff who may not have had security clearances and was apparently "transmitted via unsecured means."

The IG also found that "the document, and/or the essence of its contents, may, in whole or in part, have been provided to both Federal and industry officials in unclassified settings."

"The methods used in creating and distributing this document led us to the preliminary conclusion that the commission may not possess adequate controls for identifying and handling classified national security information," the IG said.

The IG's review responded to calls by FERC officials and senators Mary Landrieu of Louisiana and Lisa Murkowski of Alaska, the respective chairman and ranking member of the energy committee, to review how the information in question came to be published by the *Wall Street Journal* and to make recommendations to improve document security.

Citing the FERC analysis, the *Journal* reported that a coordinated attack on just nine of the 55,000 electric transmission substations in the US would cripple the grid and produce a nationwide blackout (*IF*, 17 March, 3).

In response to a question from Landrieu, LaFleur on Thursday said FERC staff had met privately with the IG to gain a better understanding of the documents in question. She said FERC is putting paper copies of those documents in secure facilities and "wiping and scrubbing" electronic sources of that data.

- FERC is also conducting a full internal review of the situation, she said, and has the goal of a "crisp and clear internal process" to understand what information is being created and to ensure the right staff are weighing in on what classification status that information should have.

Murkowski told LaFleur she would be sending FERC more extensive questions on the handling of key documents and how the modeling analysis in question was conceived and used. Murkowski noted she would not be seeking sensitive information, and would turn over the responses to the IG's office as he analyzes the issue.

"You will absolutely have our cooperation," LaFleur said.

In speaking to reporters on the sidelines of the hearing, LaFleur acknowledged that she believes there are more documents that contain the modeling information in question beyond the presentation noted by the IG, and that FERC is in the process of reaching out to officials at DOE to get the necessary classification for that data.

She also said that "we are in the process of getting our arms around all the documents, everything that might exist electronically, so we can make sure that it's cabined."

LaFleur as well shed new light on the nature of the documents in question and what steps FERC had taken to protect them. In her prepared testimony, LaFleur noted that the information published by the *Journal* and presented to industry and other stakeholders was protected as Critical Energy Infrastructure Information. Consistent with CEII rules, LaFleur said that "certain aspects of such modeling were shared with the owners and operators of relevant facilities pursuant to non-disclosure agreements."

Citing the CEII designation, LaFleur told reporters that the information in question "wasn't completely unprotected. It just is a different level of protection than classification."

To alert industry stakeholders that the information has been classified, LaFleur said that FERC on one hand can fairly easily contact those that had signed non-disclosure agreements, but that the task would be more difficult for those that did not sign an agreement.

Violating CEII non-disclosure agreements does carry penalties, including employment consequences for FERC staff and potentially being required to give the information back, LaFleur said. According to a general non-disclosure agreement on FERC's website, signatories acknowledge that "a violation of this agreement may result in criminal or civil sanctions, including the suspension of my ability to appear before the commission."

But when asked whether the disclosure of the information in this case could potentially lead to criminal prosecution, LaFleur said "I have no reason to believe there is a criminal case, and that would be something that would be decided if something were referred to the Department of Justice."

Her comments also indicate that classifying documents is an uncommon step for FERC to take. FERC has classification authority and operates a secure communications facility, LaFleur said, pointing to instances when FERC has received already-classified information from the FBI.

But she said that "I'm not aware in my tenure of us classifying something, but we do have classification authority, so it's quite possible something has been classified in the past."

In comments to open the hearing, Landrieu called the Metcalf attack "the most serious attack ever on the US electricity system," while also commending industry and state and federal officials for steps taken in response to the attack. Landrieu, for instance, highlighted work FERC and North American Electric Reliability Corp. had already begun to address physical security, particularly the March 7 directive to NERC to propose reliability standards within 90 days to address bulk power system physical risks and vulnerabilities. NERC officials have said they will meet that deadline.

She said grid reliability is the responsibility of both industry and state and federal authorities, and that threats to the grid should be communicated to stakeholders in a "timely, secure and actionable fashion."

Sue Kelly of the American Public Power Association and Gerry Cauley of NERC as well offered support to improve information sharing among government officials and industry. Kelly said APPA supports the Cyber Intelligence Sharing and Protection Act (H.R. 624), which passed the House last April but has yet to gain

traction in the Senate, and Cauley in his prepared testimony said broadly that information sharing is "an essential component of security protection."

"The only way industry participants on the ground can truly protect against an event is to be aware of a specific threat or concern. They know which of their assets are critical. They know what they need to do to protect against the majority of physical and cyber threats. However, if the government is aware of a specific threat, communicating that information to those individuals on the front lines is important," Cauley said.

Murkowski said FERC must better protect non-public information from disclosure, while demurring on whether FERC needs new authority via legislation to direct actions during grid emergencies. She also said that the IG's finding that the information in question should have been classified was a "revelation" and "extremely troubling."

While the IG referred to the release of the information in question as an "alleged leak," questions remain over the nature of the information's emergence into the public sphere.

Former Chairman Jon Wellinghoff, who was heading the commission at the time of the attack, has disputed claims that the analysis was "non-public," saying that the results of the analysis had been shared with "literally hundreds of people" in government and industry (*IF*, 31 March, 1). He also said that the analysis "simply confirmed what we already know" and have known since the early 1980s — that knocking out a small number of substations could disrupt the grid.

But in a statement last week in response to the IG's report, Murkowski said that "this was a dangerous leak of highly sensitive information that should have been classified and closely guarded. Unfortunately, it's now clear that under its previous leadership, FERC mishandled information that should have been classified."

She added that "at best, a disclosure such as this has national security implications. At worst, it could endanger us all."

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The National Journal
Energy Insiders

IS PROTECTING THE GRID A MATTER OF NATIONAL SECURITY?

By Clare Foran

April 14, 2014

How much should protecting the electric grid weigh in considerations of national security?

A report from the Energy Department's internal watchdog, the Office of Inspector General, concluded this week that information on grid vulnerabilities leaked to The Wall Street Journal last month should have stayed under wraps. The IG's investigation also noted that the Federal Energy Regulatory Commission may not have adequate safeguards in place to handle and protect classified information relating to the grid that could impact national security.

"This was a dangerous leak of highly sensitive information that should have been classified and closely guarded," Senate Energy and Natural Resources Committee ranking member Lisa Murkowski said in a statement. "Unfortunately, it's now clear that under its previous leadership, FERC mishandled information that should have been classified. At best, a disclosure such as this has national security implications. At worst, it could endanger us all."

Is grid security the same as national security? Or has the threat been overblown? How damaging could an attack on the country's electric grid be and what kind of damage could it cause? Has the leak of classified information

on grid vulnerabilities helped the situation by bringing grid instability into the spotlight so that it can receive the attention it deserves? Or has it put the nation at risk? What more can FERC and other agencies do to ensure the grid does not go down in the event of an attack?

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AS UNCERTAINTY LINGERS, MURKOWSKI SAYS SHE'D BE 'VERY HAPPY' IF LAFLEUR STAYS AS CHAIRMAN

A leading Republican senator provided further support Thursday for Acting Chairman Cheryl LaFleur to be re-nominated to lead FERC, even as it remains unclear on how the White House will proceed on the matter.

Alaska Senator Lisa Murkowski, ranking member of the Senate Energy and Natural Resources Committee, told reporters on the sidelines of a hearing that she has received no word as to whether the White House intends to re-nominate LaFleur to FERC. LaFleur's five-year term expires June 30, although she could continue to serve under a grace period through the end of this session of Congress.

Speaking of LaFleur, Murkowski told reporters that "she's demonstrated great competence and a real ability to lead. She's doing a good job there. I'd be very happy if she were to stay as the chairman. But thus far the administration hasn't even indicated that they intend to send her renomination as a commissioner."

Murkowski added, "So I'm not quite sure what their plan is."

The White House in January nominated Norman Bay, FERC's current enforcement chief, to the open commission seat with the intent to appoint him as chairman upon confirmation. Sources say that Bay's nomination packet has been sent to the energy committee, which has jurisdiction over FERC, but that Bay has yet to meet with Murkowski.

When asked about Bay, Murkowski questioned why he needed to be nominated straight to the center seat at FERC and why he could not instead be nominated as a commissioner and later appointed chairman if he does well.

Murkowski's comments Thursday echoed a statement in recent days wherein the ranking member through a spokesman offered support for LaFleur being re-nominated and appointed to serve as chairman for the rest of President Obama's term.

Jeanne Shaheen, Democrat-New Hampshire, and a bipartisan group of New England senators in recent days have as well called for LaFleur to receive a fresh five-year term at FERC.

"We believe it is vital to nominate someone with knowledge of the energy issues impacting the United States, and Acting Chairman LaFleur is presently the only individual on the commission with deep knowledge of the Northeast region's unique energy challenges," the senators said in an April 1 letter. Joining Shaheen were Democrats Edward Markey of Massachusetts, Sheldon Whitehouse and Jack Reed of Rhode Island, Republicans Kelly Ayotte of New Hampshire and Susan Collins of Maine, and Independent Angus King of Maine.

It remains unclear, however, whether other leading Democratic senators are backing another term for LaFleur. Spokespeople for Senate Majority Leader Harry Reid of Nevada and Senator Mary Landrieu, the chairman of the energy committee, did not respond to a request for comment by press time on whether they support LaFleur's renomination, either to be a commissioner or chairman.

When asked in recent weeks about her status, LaFleur has said she wanted to continue serving at the commission, but has declined to say whether she has had conversations with the White House on the matter.

A White House representative did not respond to a request for comment.

Bobby McMahon

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NORRIS, OTHERS QUESTION EVOLVING ROLE FOR UTILITIES IN FACE OF NEW TECHNOLOGY, REGULATORY APPROACH

The role of regulation and the changes being imposed on electric utilities by the growing level of energy storage and new technologies in the power sector was viewed with both excitement and questions at the Energy Bar Association's annual meeting in Washington last week.

Technology has transformed other industries, and the challenge of modifying regulations to match the changes being seen among utilities will mainly fall upon state regulators, according to speakers on a panel that included Commissioner John Norris. FERC's role at the wholesale level has been to ensure reliability and just and reasonable rates, and most of the questions about accommodating distributed generation or utility customers imposing costs on others will be addressed by state regulators, Norris said.

Storing electricity "is at the heart of the changes being seen" among new technologies, because it enables a customer to use intermittent renewable resources combined with storage to be completely separated from the utility grid or self-sufficient to a large extent, said Norris.

The integration of rooftop solar facilities, DG and microgrids should be a slow process for the utility industry, said Bob Blue, president of Dominion Virginia Power.

Dominion is establishing microgrids, which can be separated to provide power to communities without any support from the bulk power grid, in Richmond, Virginia, and on the Outer Banks of North Carolina, and it is developing pilot projects on rooftop solar to enable more "democratization of the grid," Blue said.

Rather than a dramatic, rapid shift, integrating new technologies should be an incremental process, Blue said. Other speakers on the same panel asserted that as battery storage devices, photovoltaic facilities and power inverters that change direct current to alternating current come down in cost, customers will be wanting to take more control of their own energy future.

"We need to change the paradigm" that has monopoly utilities at an advantage and makes integrating new technologies a challenge, said Chris Shelton, president of AES Energy Storage. Regulators should empower customers to be able to make more decisions on their own about back-up power facilities, DG assets and electric vehicle charging options, added Cortney Madea, senior counsel – regulatory, at NRG Energy.

"I don't expect the utilities to be driving the change, but they're going to have to respond to it or they'll be left behind," said Norris. He later backtracked and agreed with Blue that utilities can be leaders in the use of new technologies, such as Dominion's use of voltage reduction at the transmission level that saves electricity for utilities.

Attorney Scott Hempling, former executive director of the National Regulatory Research Institute, moderated the panel, noting that what may be viewed as consumer empowerment by DG advocates can be seen as a death

spiral for utilities. That theory is based on utility customers using less power from the grid and imposing more costs on those using the grid all the time, making it more attractive to leave the utility grid in some way.

Allocating costs through net metering rules and other provisions for customers with DG or storage technologies is getting to be a challenge for state regulators, but the issues are not new, Blue said. Dominion is not waiting for all of the "what if" scenarios to play out, it is investing in infrastructure security and other measures to maintain grid reliability. "We are not fretting . . . we're building," Blue said.

Speaking before the panel, James Woolsey, former director of the Central Intelligence Agency and chairman of the Foundation for Defense of Democracies, said there is no way to make renewable resources work on a large scale without batteries. He is forecasting a relatively rapid move for the power sector to have more DG and microgrids, which can enhance grid security and resiliency.

Whether utilities are going to be buyers or sellers of technologies such as energy storage services, DG or renewable resources, they are going to be dealing with the changes coming their way. And state regulators, rather than federal regulators, will be forced to make most of the tough decisions on allocating costs and integrating such technologies, panelists said. How much regulators should support having everyone paying for a legacy power grid that will be providing power to fewer customers gets to the heart of the stranded cost question, Norris said.

Shelton referred to transmission planning in PJM Interconnection and $100 million in stranded costs from examining transmission facilities for many years that have proven to be not needed due to fuel switching and increased use of demand response resources. Utilities are recovering those costs, but it is time to examine how the monopoly utility system should be changed, he said.

Having politics involved in fuel choices or stranded costs will involve more industry bickering, Norris said. "I think you have Armageddon coming" as industry players look to keep assets already on the books useful in the future, he said.

Other than ensuring resources at the wholesale level receive full value for the benefits they bring, FERC's role should be limited in the political arena when fossil fuel interests and others are battling for market share, Norris said. Having FERC engaged in such debates can be "problematic" and is "somewhere an agency shouldn't go," he said.

Tom Tiernan

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SNL.com
Friday, April 11, 2014 3:06 PM ET

SENATE COMMITTEE AIMS TO RAMP UP ENERGY INFRASTRUCTURE, GOP COUNSEL SAYS

By Sean Sullivan

The Senate Committee on Energy and Natural Resources intends to help FERC process a build-out of energy infrastructure assets that will help the U.S. take best advantage of its shale gas reserves, according to the top Republican attorney for the committee.

Patrick McCormick III, Republican chief counsel for the Senate committee, said the committee considers this effort vital for maintaining a secure, abundant, affordable and relatively clean national energy supply. McCormick said the committee, led by Sen. Mary Landrieu, D-La., operates with a "bipartisan tone" that has

made it one of the most productive congressional committees in terms of bills introduced and passed. The committee is "fertile ground" for the Senate to solve energy problems, he said.

McCormick — who gave credit to the committee's ranking member, Sen. Lisa Murkowski, R-Alaska, as long as the audience liked what he said — made his remarks in front of a group of energy attorneys at an April 9 lunch of the Energy Bar Association in Washington. He encouraged the attorneys to be active in Congress and in forums such as the FERC review process.

In discussing solutions to regulatory challenges, McCormick said expanded reserves of recoverable gas and oil are great opportunities for the U.S. and the world, "but we must modernize the infrastructure for exports." He said Russia's move on Ukraine showed that the world needs U.S. LNG exports, and Murkowski has said the U.S. could have been in a better position to help if permitting processes had been faster.

The timetable for pipeline reviews could also be improved to increase the amount of infrastructure available to move energy supplies within and across U.S. borders, McCormick said. Congress is considering legislation that could streamline federal reviews of pipelines. "How can we site these projects more quickly?" McCormick said.

McCormick noted that after discussions with FERC Commissioner Philip Moeller, Murkowski is interested in efforts to improve the reliability of the electric power grid, including FERC orders to enhance gas-electric coordination. Murkowski has said new regulations must support the grid as many generators come offline and natural gas becomes the dominant fuel for generation by 2040, according to U.S. Energy Information Administration numbers.

"As natural gas assumes additional market share, we must be mindful of the need for additional infrastructure" and better synchronization between the gas and electric industries, McCormick said. McCormick, who earlier served as a deputy assistant general counsel at FERC, commended the commission's efforts in these areas.

He encouraged energy attorneys to step into their "stewardship role" before Congress and FERC and promote a "culture of reasoned decision-making," noting the importance of energy laws and agencies. As an example, McCormick described the "broad economic reach" of FERC. A 2013 analysis by the Congressional Research Service calculated, based on the volumes of commodities that move through FERC-regulated wires and pipelines, that the commission has a broad-brush total value to the U.S. economy of about $435 billion each year, or almost 3% of the country's GDP. In addition, McCormick said, energy infrastructure supports many other industries, "making the commission even more important to the economy."

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SPITZER STRONGLY DEFENDS FERC ACTIONS ON GRID RELIABILITY, HIGHLIGHTS NEED TO BALANCE CONCERNS

Former commissioner Marc Spitzer last week provided a full-throated defense of the job FERC has done to ensure electricity system reliability, which came amid concerns about how changing public perceptions about grid resilience could lead to higher costs for ratepayers.

"I will be damned if I'm going to allow people to assert that the commission is indifferent to the reliability of the grid," said Spitzer, who left FERC in late 2011 and is now a partner at Steptoe and Johnson. "That is not the case. They're absolutely committed to taking all reasonable and appropriate steps."

Speaking to a gathering of the Energy Bar Association in Washington, Spitzer was responding to the view that FERC is not taking necessary steps to protect the electricity grid, pointing in part to a recent media reports

detailing a FERC analysis on critical assets on the grid. FERC's handling of sensitive documents and recent efforts to ensure physical security was the subject of a high-profile Senate hearing last week (see story this issue).

"There has been created in the press a misapprehension that FERC is not interested in securing the grid and that FERC is not willing to take the necessary steps to do so," Spitzer said. In response to that view, he touted the dedication and commitment of commissioners and FERC staff as well as national and regional reliability officials, utilities and other stakeholders.

"I am very confident that, in accord with the statements made by the commissioners, they will be judicious and fair stewards of ratepayer resources and are committed to the reliability of the grid and committed to do the very difficult but essential job of balancing competing interests," Spitzer said of the commissioners at FERC.

In particular, Spitzer highlighted the comments of Commissioner John Norris, who in February cautioned against an "overreaction" to concerns about physical security (IF, 24 Feb, 1). "Our future is in a much smarter and more nimble grid, along with better communication and coordination, to mitigate against multiple forms of risk," Norris said at the time.

Spitzer last week called Norris' broader statement on grid reliability and security "one of the finest expositions on the challenges and complexities and ultimately the duty of FERC to balance the competing interests of cost and reliability."

Spitzer and others on the panel also highlighted changing public perceptions around grid reliability, with the former commissioner noting that some on Capitol Hill believe that the reliability measures enacted within the Energy Policy Act of 2005 "outlawed blackouts."

Charles Berardesco, general counsel at North American Electric Reliability Corp., said reliability has overtaken cost as the key consideration in recent years and that "we have a lower and lower tolerance for outages."

Berardesco noted that FERC recently directed NERC to create a standard to help ensure physical security on the system (RD14-6), and that NERC will not in creating that standard "go off on some huge tangent of requiring dramatic new things from industry with respect to physical security."

But he acknowledged that some may be concerned that the upcoming standard will be "step one" toward broader physical security requirements, calling such concerns "legitimate" and highlighting the potential costs of creating an "impervious" grid.

"If the policymakers push us down a path of making the grid impervious as opposed to resilient to physical attack, it will get a lot more expensive," Berardesco said. "It will become a lot more intrusive."

Berardesco and others on the panel suggested that one area of effort for Capitol Hill should be to increase information sharing between government agencies and industry about emerging threats. NERC has been "huge advocates" of such a move, Berardesco said, adding that there are "unbelievably few top secret clearances" provided to the electric industry.

"The first step is for government to have a rationale approach to sharing information it has with the very people who are expected to defend their systems," he said.

Bobby McMahon

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QUESTIONS ABOUND OVER FERC LICENSING TRADERS; PROGRAM FAR OFF, COMMISSION OFFICIAL SUGGESTS

FERC has not begun any formal examination of the idea of licensing energy traders in physical markets, despite recent suggestions by commissioners that it was ready for prime time, according to a top enforcement official.

"A couple of commissioners have made some comments regarding the possibility of exploring a registration or licensing process, but to date the commission has not taken any formal action or made any decisions on that type of process or regime," said Larry Gasteiger, deputy director of the Office of Enforcement.

In December, Commissioners John Norris and Phillip Moeller announced their intent to explore developing a licensing program for traders in FERC-regulated markets similar to programs at the Commodity Futures Trading Commission and the Securities and Exchange Commission (IF, 6 Jan, 1).

FERC officials have met recently with House and Senate staff on the idea. There was interest expressed by Capitol Hill staffers, Norris said, relating that they were open to the possibility of a "more thorough look" into the possibility of trader licensing.

Acting Chairman Cheryl LaFleur recently declined to say why FERC was not moving ahead with an inquiry or other action to further investigate individual trader licensing or if she generally supports the concept. At a press roundtable in January (IF, 3 Feb, 1), LaFleur said her enforcement focus was on keeping markets fair and reliable and at the time offered no immediate support for a trader licensing program.

"It's something I have an open mind on, I'm interested in what [Moeller and Norris] hear back," she said.

During the Energy Bar Association's annual meeting last week, Gasteiger said FERC would need to consider many issues related to developing such a program and hinted that the commission was a long way off from issuing any formal rulemaking or policy directive.

"I think were they to go down that road, there are a quite a few issues they would need to think about and give some consideration to," including the scope of the program, Gasteiger said. A key question is whether FERC currently has the statutory authority to implement such a program, he added.

Furthermore, Gasteiger said there would be questions as to who, ultimately, would be responsible for administering such a program. "Would it be FERC or another organization like a [self-regulatory organization], or would it be some existing entity or the organized markets? We would be talking about an [regional transmission organization] or [independent system operator] or some special actor. I think those are the types of questions the commission would explore if it were to look into such a process," Gasteiger said.

Additionally, Gasteiger said the commission would have to look at "the burdens on industry and whether those burdens are offset by the benefits to having such a registration or licensing process."

Norris in a recent interview said the plan, in part, was an effort to target individual traders responsible for fraud and manipulative schemes. "I think there's been a growing concern here that it's more difficult to get at individual traders," he said. "I think there's a need for more individual trader responsibility for involvement in these manipulation schemes."

Michael Spafford, an attorney with Bingham McCutchen LLP, said that, so far, most of the enforcement-related comments from commissioners have been directed at the financial players in FERC-regulated markets. He questioned whether an additional layer of registration would be necessary.

"There is a pretty intense registration scheme under CFTC regulations for financial traders, so one wonders why we need another one, particularly when the CFTC and the SEC have made certain decisions as to who should be registered and who should not be," Spafford told the EBA audience.

What a licensing program also calls into question is whether the RTOs and ISOs would still qualify for an exemption from CFTC regulations should they begin to register traders.

Spafford indicated that PJM Interconnection has looked into barring certain traders from the PJM platform if they don't qualify under CFTC exemptions. "That's so that PJM can satisfy the exemption, the RTO/ISO exemption to Dodd-Frank," Spafford said. "What happens if we start registering traders? Does that throw into issue that exemption?"

A question that weighed heavily on the minds of the panel at EBA was who would administer the program, assuming FERC would want an independent authority to register traders.

Currently, registration programs are operated on the SRO level at the CFTC with the National Futures Association taking on registration responsibly and the Financial Industry Regulatory Authority registering brokers and traders in SEC regulated markets.

"Does FERC really want to get into establishing another SRO, and are we going to have now three SROs that could potentially apply to traders in the space? How much duplication do we need?" Spafford asked.

"As it stands now, when you step back and look at the FERC enforcement regime they are focused on the entities that are approved with the tariffs and rate schedules, and I think that is a proper focus," he added.

Christopher Tremulis

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Inside FERC
April 14, 2014

CFTC'S O'MALIA RAISES CONCERN OVER FERC PROTECTION OF SENSITIVE MARKET DATA

The Commodity Futures Trading Commission is beefing up its data-sharing polices in light of energy end-user concerns that sensitive market data now being shared with FERC is not secure enough, CFTC Commissioner Scott O'Malia said last week.

"Maybe we need to think about this a little more holistically and say, 'You know, when we do share it with the FERC, maybe they should have the same standards we do.' Maybe Congress needs to revisit some of those issues," O'Malia said April 10.

He said there is a management plan in the works at the CFTC to lay out how it protects market data when sharing with other regulators and defend against data being inadvertently released due to less-stringent procedures elsewhere.

O'Malia said while the CFTC wants to work with other regulators such as FERC, the CFTC still needs to keep in mind its statutory obligations related to protecting market data.

FERC officials on April 1 said data has started to flow from the CFTC and is playing a role in determining if natural gas and electricity markets were manipulated during a winter with unprecedented volatility (AD14-8).

Getting to the point of data sharing has been a sensitive and delayed issue for the CFTC and FERC as they have openly sparred in congressional testimony — with FERC blaming the CFTC for not being more open and providing FERC staff with market data.

"This is market sensitive information and not every regulatory agency has the same standards or interests, frankly, and our Section 8 requirements are pretty specific," said O'Malia, referring to authority under the Commodity Exchange Act. "It's a heavy penalty if we screw this up."

O'Malia said that not only is it important for regulators to work together protecting market data, it is also important to enhance cybersecurity as part of the larger mission of protecting the financial system.

"We have to be cognizant of our responsibility. . . . This is very sensitive information, especially if we are going to be the global leaders of these markets," he said.

O'Malia added that a hack of CME Group, IntercontinentalExchange or a clearinghouse "would be of huge consequence in this country and globally. We have to have policies and procedures that are going to be very protective of that proprietary data, but also significant financial infrastructure we have in this country."

Elsewhere last week, Commissioner Philip Moeller said FERC and the CFTC should have a joint meeting to discuss common issues. "We should be talking," Moeller said on the sidelines of a Senate Energy and Natural Resources Committee hearing April 10.

Moeller stressed the value in having commissioners sit together and identify common interests and, in noting that FERC has held joint meetings with the Nuclear Regulatory Commission before, said that there are certainly "more pressing issues" between FERC and the CFTC than with FERC and the NRC at this time.

Acting Chairman Cheryl LaFleur said in a statement April 11 that she thinks a joint meeting would be "useful" and discussed doing so with Acting CFTC Chairman Mark Wetjen after the two commissions reached agreement in January on memoranda of understanding on jurisdiction and information sharing.

In March, the two agencies announced they had taken further steps to share market data while also launching a staff level working group on using analytical tools for regulatory purposes.

"I was very pleased to be able to complete negotiations on the CFTC-FERC MOUs executed in January," LaFleur said. "The data CFTC recently began sharing with us is quite helpful, and I am hopeful that the new staff-led interagency surveillance and data analytics working group will lead to further information exchange and coordination. I strongly believe the two commissions should continue to cooperate on our respective agendas."

A full joint meeting between the sitting commissioners at FERC and the CFTC would be rare if not unprecedented. Moeller and O'Malia hosted a meeting on clearing and netting between wholesale energy markets in 2010, and FERC and the CFTC held a technical conference in 2003 on energy market credit issues.

Moeller as well backed the idea of FERC holding a forum on trading, noting that it currently is not getting much attention at the commission outside of enforcement matters and does provide value to the markets in terms of liquidity and hedging.

A CFTC spokesman declined to comment on Moeller's proposal, but did say that "our agency has a good working relationship with FERC."

Christopher Tremulis, Bobby McMahon

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SNL.com
Friday, April 11, 2014 12:13 PM ET

OBAMA ADVISER: LITTLE CHANCE OF PHYSICAL ATTACK TAKING DOWN US GRID

By Eric Wolff

A physical attack on a few key substations that would disable the national grid has only a "low probability" of success, a senior adviser to President Barack Obama said April 10.

On March 12, The Wall Street Journal reported on a FERC document that claimed the U.S. grid could be shut down for 18 months or longer by attacking nine key substations and a transformer factory. Speaking at a panel

hosted by George Washington University's Cybersecurity Initiative and the Edison Electric Institute, Rand Beers, senior adviser to Obama and a former acting U.S. secretary of homeland security, said the chances of such an attack succeeding are low.

"The likelihood of the occurrence of that under those narrow assumptions are of such a low probability as to be next to impossible," he said.

The March article unleashed a wave of discussion over both the physical security and cybersecurity of the electric grid and about how well FERC secured its data. The document leak inspired congressional hearings and drove the U.S. Department of Energy's inspector general to issue a management alert to FERC.

"One of the things we worry about is how sensitive security information gets exposed," Beers said at the panel.

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The Energy Daily
April 14, 2014

CONSERVATIVE GROUP SUES FERC FOR DOCUMENTS ON MANIPULATION CASES

BY GEORGE LOBSENZ

A conservative group said Friday it has filed suit on behalf of an energy trading firm against the Federal Energy Regulatory Commission seeking to compel the agency to release documents relating to enforcement actions taken by FERC over alleged energy market manipulation.

The Free Market Environmental Law Clinic, part of the Energy and Environmental Legal Institute, said it filed suit in U.S. District Court for the District of Columbia Wednesday on behalf of STS Energy Partners LP to force FERC to release internal e-mails "related to opaque, arbitrary regulatory decisions that unfairly penalize small businesses and discourage investment."

In particular, the lawsuit by the law clinic says FERC is not meeting Freedom of Information Act (FOIA) requirements to release documents pertaining to two FERC decisions that are "the latest in a series of actions by FERC and FERC's Office of Enforcement that are forcing financial traders to voluntarily exit the markets because of regulatory and enforcement uncertainty.

"STS Energy wants to understand the rules under which trading firms can participate in the power markets without being retroactively labeled as a 'market manipulator' by the FERC Office of Enforcement," the law clinic said in a press release.

The lawsuit cites assertions by Stewart Mayhew, former deputy chief economist at the Securities and Exchange Commission (SEC), that trades which FERC finds objectionable offer "an example of a spread strategy, a broad category of strategies that are not only legal but are ubiquitous in the financial markets."

The law clinic said the comparison to SEC-approved trades is critical because FERC is required to abide by SEC precedent and the FERC Office of Enforcement case is based upon an SEC decision.

"The specific actions that drew STS Energy's attention were the reversal of FERC's decision concerning arbitrageurs' participation in obtaining rebates for excess payments (the "Black Oak" orders), and the investigation into and subsequent settlement with Oceanside Power LLC and Robert Scavo (the "Oceanside investigation")," the law clinic said.

"The Black Oak orders and the Oceanside investigation both involve the 'spread strategy' that FERC opposes but is legal under SEC rules," it added. "The lack of any clear explanation by FERC for its refusal to follow a trading strategy deemed lawful by the SEC, along with FERC's Office of Enforcement's seemingly arbitrary

enforcement actions, have left investors to wonder what kinds of conduct is prohibited, and led some to withdraw from the power market."

The law clinic also said that FERC has acknowledged that it has nearly 350 emails and other records responsive to the FOIA requests exist, but has refused to comply with its legal obligations to release segregable portions.

"The records this case seeks should bring fresh scrutiny of the commission's enforcement agenda and may shape how other participants approach trades and FERC investigations in the future. Further, it should produce a more thoughtful and reasoned FERC enforcement policy," David Schnare, director of the law clinic, said in a statement.

A FERC spokesman had no comment on the lawsuit Friday.

The lawsuit comes as several energy trading firms are ramping up public campaigns questioning FERC enforcement action alleging energy market manipulation, with critics contending the agency has failed to make a persuasive legal case that certain trading strategies are illegal.

The law clinic also directly targeted Norman Bay, director of FERC's Office of Enforcement, in another lawsuit last month seeking to pry documents out of FERC regarding alleged efforts by former FERC Chairman Jon Wellinghoff to convert Bay from a political appointee to a civil service appointee to ensure Bay stayed at the commission after Wellinghoff left the agency in November.

The lawsuit comes amid rumblings on Capitol Hill that key lawmakers are not happy with the Obama administration's nomination of Bay to become FERC chairman, with some suggesting he lacks sufficient experience in the energy industry.

More broadly, sources say Bay's nomination was promoted by Wellinghoff in hopes of ensuring policies favored by Wellinghoff were maintained at FERC. In particular, some industry groups are pushing to reverse policies favoring demand response providers that were championed by Wellinghoff.

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Electric

SNL.com
Friday, April 11, 2014 10:36 AM ET

FIRSTENERGY ASKS FERC TO FIND PJM'S MONITOR IS CALCULATING SUPPLY OFFER CAPS INCORRECTLY

By Marcy Crane

In an April 7 petition for declaratory order, FirstEnergy Solutions Corp. asked FERC to find that the independent market monitor for the PJM Interconnection LLC is incorrectly interpreting the grid operator's tariff with respect to the way market seller offer caps are to be calculated.

The FirstEnergy Corp. subsidiary asserted that the market monitor's method for determining the caps may not allow existing generation capacity resources to submit offers that reflect the gap between their costs and their revenues, often referred to as "missing money."

To mitigate seller market power in its forward capacity market — also known as the reliability pricing model, or RPM — existing generation capacity resources are subject to a must-offer requirement and a price cap on their sell offers that approximates the revenue they need to receive from the capacity market to make them economic. Each such resource can submit capacity sell offers into a PJM base residual auction at a price below its unit-specific cap — calculated as its avoidable cost rate minus its projected market revenues — without any threat of mitigation.

However, Solutions said PJM's market monitor has been calculating a unit's projected market revenues using the lower of the market-based offer and cost-based offer submitted into the energy market each hour of each day even though the tariff "clearly states" that the cost-based offer should be used. Solutions asserted that the disagreement stems from tariff language specifying that projected market revenues include all of a resource's actual unit-specific revenues "net of marginal costs for providing such energy (i.e., costs allowed under cost-based offers pursuant to ... the operating agreement) and ancillary services from such resource."

"The dispute here is a simple one: does the phrase ... mean that the IMM has the flexibility to choose its own method for calculating the marginal cost of providing energy for purposes of RPM market seller offer caps?" the petition said. "Solutions believes that it does not and that the tariff requires the IMM to calculate marginal cost using a unit's cost-based offers for energy."

For one thing, Solutions argued, if the parties to the negotiated settlement that established the RPM meant to give the market monitor flexibility with respect to how it calculates marginal costs, "they would have used the abbreviation 'e.g.' instead of 'i.e.'" As "i.e." has the "discrete meaning of 'that is' or 'in other words,'" Solutions said, the language "does not allow for any suggestion that cost-based offers are but one approach, among others, to calculate marginal cost," but instead clarifies that cost-based offers "shall be used" for that purpose.

Moreover, Solutions said the "lower of cost- or price-based offer" methodology does not take into account a seller's legitimate reasons for submitting market-based offers that are either below or above the unit's marginal cost of production, such as to keep a unit running even at a loss in the short-term or to hedge against the risk of failing to perform in real-time.

Solutions told FERC that PJM agrees with its position and has authorized the utility to state that it continues to interpret the tariff "as requiring the use of cost-based offers to determine an existing generation capacity resource's marginal costs." The commission accordingly was asked to confirm by May 9 that Solutions' reading of the tariff is correct so the seller offers submitted in the next base residual auction, scheduled to begin May 12, can reflect that determination. (EL14-36)

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Megawatt Daily
April 14, 2014

ISO-NE, INDUSTRY TO DISCUSS WINTER RELIABILITY PROGRAM

ISO New England and the New England Power Pool Participants Committee are meeting next month to discuss the future of the program that expanded New England's reliance on oil-fired power during the winter, according to sources in the region.

ISO-NE and the committee of power market participants are meeting May 2 to discuss the future of the winter reliability program. The meeting comes in the wake of a particularly cold winter that sent natural gas prices soaring to record levels and provided an impetus for oil-fired generation units in the region.

As late as April 2, the ISO's position was to end the one-year winter reliability program it put in place in advance of the 2013-2014 winter by seeking permission from the Federal Energy Regulatory Commission to remove tariff provisions related to the program.

But the ISO has reconsidered that position, in part because the region could be in for another cold winter, New England power industry officials said. Consequently, the ISO and the NEPOOL committee are planning to discuss the future of the winter reliability program in their already scheduled May 2 meeting, said ISO-NE and a municipal power source who asked not to be identified.

"I haven't seen the agenda [for the May 2 meeting] yet, but I believe the winter reliability program will be a topic," ISO-NE spokeswoman Lacey Girard said Friday. The winter reliability program "won't be the only topic" of the meeting, she said.

When gas prices were at their highest levels in January, oil's contribution to the ISO-NE generation mix was as high as 25%, according to the ISO. That figure may be conservative when one considers two facts. First, the region has many dual-fuel power plants that can switch between burning gas and oil, depending on which commodity is cheaper. Second, the ISO has no means of tracking in real-time whether duel-fuel plants — counted in the gas portion of the generation mix — are burning oil or gas.

For the winter of 2013-14, ISO data shows that it had access to 6,130 MW of capacity from gas and oil dual-fuel units and 2,268 MW from oil-fired units.

From December through February, the ISO said oil-fired generation averaged 12.527 GWh/day, or 4% of total generation, compared with oil-fired generation averaging 1.860 GWh/day, or 0.6% of total generation during the comparable period of the 2012-2013 winter.

The ISO planned the increase in oil-fired generation use to hedge against gas supply constraints in the region and the challenge posed by many power plants that have interruptible contracts with gas pipelines. Those factors have previously posed winter reliability challenges in New England, with the most recent example being the 2012-2013 winter.

When it put the winter reliability program in place last fall, ISO-NE accepted 1.995 million MWh worth of bids from units that agreed to maintain adequate oil inventories and to switch from gas during a supply crunch. The average clearing price for those units was less than $31/MWh, according to the ISO. The cost of the effort was $79 million, according to the ISO.

Martin Coyne

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EnergyWire

UTILITIES: AEP CUSTOMERS SAW MOST WEATHER-RELATED OUTAGES SINCE 2003 -- REPORT

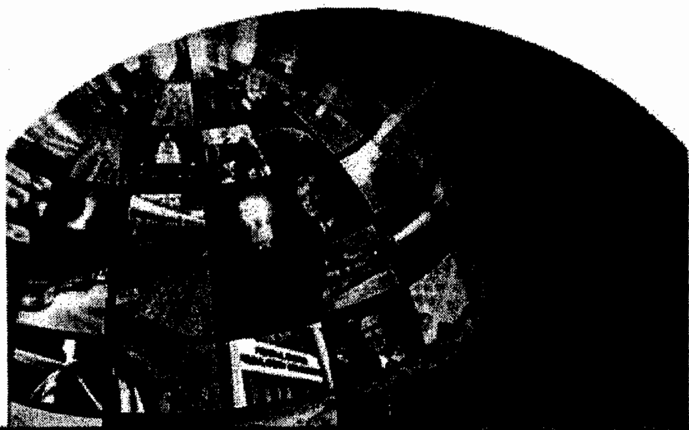
Rod Kuckro, E&E reporter

Published: Monday, April 14, 2014

Customers of American Electric Power Company Inc. experienced the most weather-related outages from 2003 to 2012, according to a new report from the Princeton, N.J.-based group Climate Central.

More than 6.6 million customers in 11 states served by AEP lost power in 42 separate weather-related outages during that period, according to the report, "Blackout: Extreme Weather, Climate Change and Power Outages."

From: Media DL
Sent: Friday, April 11, 2014 10:19 AM
To: NewsDL
Subject: April 11 newsclips



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Top Stories

The Energy Daily
April 11, 2014

SOURCES: LANDRIEU EYEING BAY DELAY IN PUSH FOR LAFLEUR RENOMINATION

By Jeff Beattie

Senate Energy and Natural Resources Committee Chairman Mary Landrieu is considering delaying nomination hearings for Norman Bay—the choice of Senate Majority Leader Harry Reid and the White House to chair the Federal Energy Regulatory Commission—until the White House re-nominates acting FERC Chairman Cheryl LaFleur to another term as a commissioner, sources have told IHS The Energy Daily. The sources say Landrieu (D-La.) is increasingly frustrated over Reid's (D-Nev.) opposition to LaFleur's renomination and the White House's failure to give her another term. Landrieu also has questions about whether Bay, FERC's current enforcement director, has an adequate energy background to run the agency, the sources say.

Staff for Reid and Landrieu did not return emails Thursday seeking confirmation or denials.

Reid opposes renominating LaFleur, sources say, largely at the urging of former FERC Chairman Jon Wellinghoff, a former state consumer advocate in Nevada who was appointed to FERC in 2006 and then made chairman in 2009 largely through the efforts of Reid.

Wellinghoff left the commission in November to join law firm Stoel Rives, and LaFleur, a fellow Democrat, was named acting chairman. Her current term expires in June.

Wellinghoff's departure left FERC with a vacant seat, meaning there is room on thecommission for both Bay and LaFleur, although LaFleur would have to step down as chairman. LaFleur has indicated publicly that she would like to be renominated to FERC with or without the chairmanship.

But sources say they think Wellinghoff sees LaFleur as a swing vote on policy issues he prioritizes—including federal policy support to encourage demand response—and that FERC would be more tilted to support such issues with Bay as chairman and LaFleur replaced by a Democrat more to Wellinghoff's liking.

Wellinghoff said Tuesday that it is inaccurate to say he has lobbied Reid's office in opposition to LaFleur's renomination, or that he has concerns about her support for demand response. In an email, he said "neither [claim] is accurate."

Asked if he supports LaFleur's renomination, Wellinghoff declined to say yes or no. "That is not mine to say and it would not be appropriate to weigh in on this," he said in the email. "I didn't lobby the White House on Ron Binz or Norman Bay and it would not be appropriate for me to do so now."

Wellinghoff was referring to former Colorado regulator Ron Binz, the administration's first choice for FERC chairman, who withdrew his name in October in the face of strong Republican opposition.

In the wake of Binz's withdrawal, the White House surprised many FERC watchers in January by nominating Bay to be FERC chairman. Bay, who was picked by Wellinghoff to become FERC's enforcement director in 2009, is a former federal prosecutor and has no energy industry experience other than his work at FERC.

Bay gained prominence through several high-profile enforcement actions alleging energy market manipulation—a crackdown that was strongly supported by Wellinghoff, who was widely viewed as a major force in convincing Reid to urge the White House to nominate Bay.

Sources say they believe Wellinghoff is particularly concerned the majority of current commissioners may not adequately defend FERC requirements that demand response be paid at the same rates as generation, a major rule change that Wellinghoff pushed through FERC with great difficulty. There has been some industry criticism of that new demand response policy, especially from power generators, and the policy has been challenged in a lawsuit, meaning it could be remanded to the commission.

Sources say LaFleur sought to counter Wellinghoff's opposition with winter visits to the offices of Reid, Landrieu and Sen. Lisa Murkowski (Alaska), ranking Republican on the Senate energy committee.

A FERC spokeswoman declined to confirm or deny that, saying the chairman "visits Capitol Hill frequently to discuss commission matters," but that FERC does not publicly discuss the contents of those meetings.

A spokesman for Murkowski said Thursday that she supports LaFleur's renomination.

Officials with Landrieu's office did not respond to emails seeking Landrieu's view on LaFleur's renomination. But knowledgeable sources says Landrieu supports LaFleur's renomination and has questions about Bay's qualifications to run FERC due to his lack of energy industry experience.

Knowledgeable sources say she has considered delaying a hearing on Bay's nomination until LaFleur is renominated, a hardball tactic likely to anger Reid.

The sources say the FERC nomination process became more complicated after Landrieu and Sen. Kay Hagan (D-N.C.) approached Reid early this year after Binz's withdrawal with the name of a potential nominee for FERC chairman that they favored—former North Carolina Utilities Commissioner Jim Kerr. Kerr is a moderate Democrat with industry support that the senators thought would face a far smoother confirmation than Binz, who was criticized as hostile to fossil fuel.

While Landrieu thought Kerr was under serious consideration by Reid, she was surprised January 30 to see the White House nominate Bay, sources say. Kerr left the law firm of McGuire Woods in late February to become general counsel of Southern Co.

All in all, a knowledgeable source says Landrieu and other committee members interested in moving forward on FERC nominations are frustrated. "They are concerned about Bay. They are pissed at Wellinghoff. They are dumb-founded by Reid," said the source.

Sources say the relationship between LaFleur and Wellinghoff has become more complicated following the appearance of two stories in the Wall Street Journal, dated February 18 and March 12, which raised concerns about vulnerability of the U.S. grid to physical attack and generated criticism of Wellinghoff.

The February story reported on a gunshot assault last April that damaged a Pacific Gas & Electric substation in California, and discussed a few details that were not widely known. Wellinghoff was quoted in the Journal report stressing the sophisticated nature of the attack.

Following that report, two of FERC's commissioners blasted Wellinghoff, although not by name, for discussing sensitive grid immigration. Wellinghoff insists that everything he discussed was already public and non-classified.Notably, LaFleur was muted in her criticism at the time, saying only that FERC has "taken a different approach in our information communication" with regard to grid security issues.

The March 12 story described in general terms how a geographically distributed attack to knock out a handful of strategic substations might cause the U.S. power network to fail for weeks or longer. The story was based on FERC modeling that was presented last summer to Congress, the White House and federal agencies by Wellinghoff when he was chairman and other FERC commissioners. Wellinghoff was not quoted in the March story.

Without blaming anyone specific, LaFleur reacted far more strongly to the second article, calling release of the modeling information "highly irresponsible." She was joined in criticism by the national grid reliability watchdog, the North American Electric Reliability Corp., industry groups, and both Landrieu and Murkowski, who asked the Energy Department inspector general to investigate the apparent release.

Underlying both stories are questions about what role Wellinghoff may have played in supplying the reporters sensitive FERC information.

On Wednesday, the IG issued an "alert" that FERC should immediately move to protect sensitive grid and national security information that sounded like material underlying the Journal articles. Friedman's report does not finger any alleged leakers, but makes it clear that he is concerned about "former commission employees," among others.

In a Senate energy committee hearing Thursday on grid security, LaFleur said the IG told her that information should have been classified and designated "secret," rather than labeled "critical infrastructure information," a less secure category.

Sources say that to the extent that LaFleur's comments heighten scrutiny of Wellinghoff's handling of grid security information, she may draw Reid's ire.

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Politico
April 10, 2014

MURKOWSKI: WHY NOT MAKE BAY A FERC COMMISSIONER INSTEAD OF CHAIRMAN?

The top Republican on the Senate Energy and Natural Resources Committee today questioned why the White House was pushing Norman Bay, FERC's enforcement chief, directly for the agency's chairmanship.

"Why do we necessarily need to put Mr. Bay in as chairman of the commission?" Sen. Murkowski told reporters after a committee hearing. "Why not make him a commissioner? See how well he does, and if he does good you can elevate him to chair later on."

Murkowski hasn't met with Bay to discuss his nomination yet and her staff said she hadn't made a decision about whether she will support him.

The issue of nominating someone directly for the agency's chairmanship also put additional hurdles in front Ron Binz, the president's first pick to replace former FERC Chairman Jon Wellinghoff. Binz later withdrew after getting stuck in committee.

When asked whether she'd received any indication that the White House intended to renew acting FERC Chairwoman Cheryl LaFleur's term, which expires June 30, Murkowski said: "No, none."

"In my view, she has demonstrated great competence and just a real ability to lead," she said of LaFleur.

Murkowski added: "I think she's doing a good job there. I'd be very happy if she were to stay as the chairman. But thus far, the administration hasn't even indicated that they intend to send her name forward for renomination as a commissioner. So, I'm not sure what they're up to." — Darius Dixon

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Energywire
April 11, 2014

WHITE HOUSE OFFICIAL QUESTIONS FERC'S 'NEXT TO IMPOSSIBLE' GRID ASSAULT SCENARIO

Peter Behr, E&E reporter

A senior White House security official yesterday downplayed conclusions of a confidential study last year by the Federal Energy Regulatory Commission warning that attacks on a handful of high-voltage substations could cause cascading power outages across the United States.

Rand Beers, deputy assistant to the president for Homeland Security, said at a conference on cybersecurity that a headline finding in the FERC analysis -- which was obtained and published by The Wall Street Journal in March -- was built on "extraordinarily narrow" assumptions. The likelihood of such an event happening was "of such a low probability as to be next to impossible," Beers said.

Beers comments were the first from the Obama administration suggesting that FERC's study might not be of critical value to a potential attacker who obtained it. Beers said he believes the information should have been classified and restricted in its release. "That is at least the starting point on this information," he said.

He added, "There have been a lot of different scenarios, and a lot of different questions" about where the grid's most critical points would be found.

Responding to concerns in Congress, FERC commissioners on March 7 ordered the North American Electric Reliability Corp. (NERC) to prepare standards for protection of grid facilities against physical assaults with a 90-day timetable (Greenwire, March 10). FERC approved an expanded version of cybersecurity standards last year.

Conclusions from the confidential FERC modeling study were revealed a week later, exposing the commission to criticism from members of Congress led by Sen. Lisa Murkowski of Alaska, ranking Republican on the Senate Energy and Natural Resources Committee.

At a hearing yesterday, Murkowski pressed FERC acting Chairwoman Cheryl LaFleur on the agency's actions to deal with the disclosure of the information, and on a finding by Department of Energy Inspector General Gregory Friedman that at least one presentation from the study should have been classified and protected from release.

Friedman, in a public "management alert" this week, reported that the presentation, or its essence, may have been shared with industry officials in an unclassified session (E&E Daily, April 10).

Murkowski said her staff has prepared a series of questions it will put to FERC about whether the agency was the source of the leak, and if so, how that happened.

'Hundreds of people saw it'

LaFleur said she, too, was distressed that the information had gotten out of the agency. "We are working on many fronts to understand what happened and to make sure it does not happen again," she told the senators.

"We are meticulously following, first of all, the instructions of the inspector general's management alert," she said. "We are wiping and scrubbing all databases, computers, and portable devices across the commission to make sure the documents in question that potentially should have been classified are protected."

She said the agency has reached out to former officials, including her predecessor, Jon Wellinghoff, "trying to get our arms around any information that may be out there."

Wellinghoff commented following the Wall Street Journal report that the FERC study had been widely communicated around the power industry to highlight the threat of physical attacks on critical substations -- a threat dramatized in April 2013 by the still-unsolved shooting attack on the Pacific Gas and Electric Co. Metcalf substation near San Jose, Calif.

LaFleur said FERC had classified the study as "critical energy infrastructure information," and several company officials said industry executives were required to sign nondisclosure statements before being briefed on the findings.

Joseph McClelland, director of FERC's Office of Energy Infrastructure Security, noted the purpose of the study to a group of state regulators at a conference in November. "We've identified key nodes, substations and generators that if we were attackers we would target." The results were reviewed with the industry to verify conclusions, he added.

FERC has gone over company safeguards against cyber and physical attacks and best practice defenses, he said. "Who is targeting their facilities, what methods and means they're using, what technologies, and what they can use to protect their systems," McClelland said.

"Hundreds of people saw it," Wellinghoff said about the FERC study's conclusions, in comments to EnergyWire last month (EnergyWire, March 14).

He would not discuss the content of FERC study. "I can't comment at all," Wellinghoff said, adding that he didn't know how the information became public. "I have no idea."

Dependence on vendors

Whether or not the FERC report described a plausible scenario, concerns about the grid's vulnerability have escalated since the Metcalf attack and as evidence of increasingly sophisticated cyber campaigns against retail and Internet companies has emerged.

The latest major cyber shock is this week's disclosure of the "Heartbleed" vulnerability in versions of security software used ubiquitously across Internet sites to safeguard user names, passwords and other confidential information.

The bug compromises some routers and security systems sold by Cisco Systems Inc. and Juniper Networks Inc., the two leading vendors have announced, and lists of other affected vendors are growing, grid experts note. Persistent hackers can use the flaw in software code to extract sensitive personal information unless the bugs are fixed, experts said.

Annabelle Lee, senior technical executive at the Electric Power Research Institute, says the potential impact on the utility industry is not known at this point. "It would be more common on the [information technology] side of utilities" than in control systems, she said in an interview.

Cyber security officials point to the danger of cyberattackers who try to gain access into protected energy control systems by stealing passwords and other authentication from Internet-connected company networks.

The vulnerability highlights the critical dependence of energy companies on their technology vendors. "It is not a problem with the underlying cryptology," Lee said. "It is in the implementation. Each company has to work with its vendors. It is up to the vendors that implement and install patches, and they need to notify customers that the patch is available."

While utilities must comply with evolving federal cybersecurity standards, backed by audit and enforcement authority, no such oversight extends to vendors, a highly competitive industry whose companies closely guard their intellectual property.

Dress rehearsal for 'the unimaginable'

While FERC was modeling its worst-case scenarios last year, NERC responded to the Metcalf attack by holding a training exercise for utility officials in mid-November that simulated a massive, coordinated attack on grid facilities.

Thomas Kuhn, president of the Edison Electric Institute, told the George Washington University conference that the scenario began by knocking out power to 30 million people. The attacks with high-power weapons and improvised explosives were coupled with the infiltration of a potent cyber virus that invaded utility control centers.

"You try to exercise the unimaginable," Kuhn said. "Sometimes those things end up happening."

Michael Wallace, senior adviser at the Center for Strategic and International Studies, said the exercise, called GridEx II, "was not an implausible scenario, notwithstanding that it was very extreme."

Joseph Rigby, chairman and CEO of Pepco Holdings Inc., which provides electricity power to the nation's capital and its Maryland suburbs, said his company has expanded its planning to consider worst-case scenarios that include the loss of communications between the control center and substations that manage power flows across its system.

"We've thought through, if we lost almost all capability to automatically run the system, what is our preparedness to run the system manually?" he told the GWU audience yesterday. "If we were going way back in time, and managing the system perhaps the way we did it in the '50s, what is our capability to do that?"

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EnergyGuardian
April 10, 2014

FERC WILL IMPROVE HANDLING OF GRID VULNERABILITY INFO, LAFLEUR VOWS

By Edward Felker

The Federal Energy Regulatory Commission shared sensitive information about its modeling of critical electricity infrastructure with outsiders but sought to do so within its regulations, Acting Chairman Cheryl LaFleur asserted to senators on Thursday.

The disclosure of that information and details of a sniper attack last year on a substation in Metcalf, Calif., in news reports has roiled FERC officials and lawmakers, who fear it could provide a guide to terrorists in disabling the electricity grid. At a hearing before the Senate Energy and Natural Resources Committee, LaFleur sought to assure senators that FERC was moving to improve its handling of such information in the future.

She pledged to tighten FERC's "processes and culture" to safeguard sensitive information.

"In light of the release of internal FERC modeling information, we are working on many fronts to understand what happened, and to ensure that it does not happen again," LaFleur said.

An ongoing review of the handling of the information prompted an alert Wednesday by the Energy Department inspector general to the commission to improve its security.

LaFleur said the modeling information, created early last year before she took the helm in November, was categorized as critical, but not secret, and aspects were shared with utility sectors operators and owners under non-disclosure agreements.

She later told reporters that the information may have also been presented to others outside of those agreements by FERC officials who are no longer with the commission. "I wouldn't pretend to know the complete universe of everything that might have happened," she said.

The information was the basis for a story that appeared in The Wall Street Journal last month on FERC's analysis that the coordinated destruction of as few as nine critical substations could cause a nationwide blackout.

The paper also previously published details of last April's unsolved sniper attack that disabled the PG&E substation in Metcalf, near San Jose, a story that included what FERC considered non-public information.

The decision not to classify the modeling information was challenged Wednesday by Energy Department Inspector General Gregory H. Friedman. He issued a management alert to FERC that called for it to retrieve and secure copies and improve its handling of information that has national security implications.

LaFleur also said she was complying with his recommendations, including giving him documents for his review, and was updating FERC's documents procedures. She also said the modeling information was being classified at least as secret.

She told senators that FERC and the electricity sector was responding to physical and cyber threats, including the Metcalf attack. FERC last month issued an an order that will lead to mandatory physical security standards.

Many owners and operators have already taken such actions, but a mandatory standard "will reinforce, strengthen and broaden these efforts," LaFleur said.

In her comments to reporters, LaFleur would not say if she thought the information was given to the paper by former chairman Jon Wellinghoff, who chaired the commission until last November, nor would she say if any laws had been broken.

"I have no reason to believe that there's a criminal case. That would be something that will be decided if something were referred to the Department of Justice," she said.

About Wellinghoff, she could not confirm his role, if any, though she said staff have contacted him about securing the modeling information. "That's somebody else's job, the inspector general who's looking at that," LaFleur said.

Wellinghoff has said he did not give details of the analysis to the paper, and that he and other FERC officials gave briefings to federal officials on the concepts behind the analysis but not specific locations that were most vulnerable.

Still, he has been criticized by the committee's ranking Republican Sen. Lisa Murkowski of Alaska for speaking to the paper for its stories on grid vulnerabilities, and for the handling of the analysis during his chairmanship. She said the stories "sensationalized" critical information and may have increased grid vulnerability to physical attacks.

Murkowski was adamant that FERC improve its procedures, and planned to press commission staff for additional information about its internal review of the disclosures.

"Clearly the commission must do better going forward to protect non-public information from disclosure," said Murkowski.

She and the committee chair, Sen. Mary Landrieu, D-La., jointly requested the review by Friedman, as did LaFleur, in response to the stories.

Murkowski praised the actions taken by LaFleur to date, and told reporters that said she favored keeping her as permanent chairman, although President Barack Obama has already nominated FERC's enforcement chief Norman Bay to join the commission as chairman.

LaFleur's term expires at the end of June. There has been no indication yet if Obama will appoint her to a second term.

Murkowski has not come out in formal opposition to Bay's nomination, but reiterated her stance that Obama should nominate someone with commission experience to be chair.

"I think LaFleur has done a pretty good job, a very good job, in handling what she's had in front of her, and I think we'll see further action as she responds to the IG's report as well," she said.

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Megawatt Daily
April 11, 2014

MOELLER FLOATS MEETING WITH CFTC ON TRADING

The US Federal Energy Regulatory Commission and the Commodity Futures Trading Commission should have a joint meeting to discuss common issues, FERC Commissioner Philip Moeller said Thursday.

"We should be talking about it," Moeller said on the sidelines of a Senate Energy and Natural Resources Committee hearing Thursday. Moeller stressed the value in having commissioners sit together and identify common interests and, in noting that FERC has held joint meetings with the Nuclear Regulatory Commission before, said that there are certainly "more pressing issues" between FERC and CFTC than with FERC and the NRC at this time.

A full joint meeting between the sitting commissioners at FERC and the CFTC would be rare if not unprecedented. Moeller and CFTC Commissioner Scott O'Malia hosted a meeting on clearing and netting between wholesale energy markets in 2010, and FERC and CFTC held a technical conference in 2003 on energy market credit issues.

A joint meeting would also come at a time when the two agencies are working more closely together. After years of being unable to reach agreement on memoranda of understanding on jurisdiction and information sharing mandated by the Dodd-Frank Wall Street Reform and Consumer Protection Act, FERC and CFTC struck such accords in January. In March, the two agencies announced they had taken further steps to share market data while also launching a staff level working group on using analytical tools for regulatory purposes.

FERC staff at a technical conference on winter reliability challenges April 1 as well highlighted the role that CFTC data was playing in helping to determine whether or not natural gas and electric markets were manipulated during this past winter's historic cold weather.

Thomas Pinkston, branch chief in FERC's Division of Analytics and Surveillance, told the conference that staff used information from CFTC's large-trader report "to identify financial incentives by company at volatile hubs," he said, adding that staff is working to integrate CFTC's data into existing screens evaluating market activity.

The CFTC currently has only two sitting commissioners -- Acting Chairman Mark Wetjen and O'Malia. The Senate Committee on Agriculture, Nutrition and Forestry on Tuesday approved three nominees to the CFTC, with Sharon Bowen, a Democrat, and Christopher Giancarlo, a Republican, filling two commissioner seats. President Barack Obama has nominated Timothy Massad with the intent that he becomes chairman.

But Senator David Vitter, Republican-Louisiana, placed a procedural hold on Bowen's nomination Tuesday afternoon, expressing concerns about why the Securities Investor Protection Corporation, where Bowen serves as acting chairman, did not compensate victims of fraud committed by the Stanford Financial Group.

Moeller as well backed the idea of FERC holding a forum on trading, noting that it currently is not getting much attention at the commission outside of enforcement matters and does provide value to the markets in terms of liquidity and hedging.

A spokesman for the CFTC did not immediately respond to a request for comment.

– Bobby McMahon

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Wall Street Journal
April 10, 2014

FERC TO CLAMP DOWN ON SENSITIVE MATERIAL DISCLOSURE

By Amy Harder

The federal agency that regulates the U.S. electricity grid is clamping down on public disclosure of potentially sensitive material after criticism over its handling of an analysis of the grid's vulnerability to physical attack, the agency's acting head told Congress Thursday.

Cheryl LaFleur, the acting chair of the Federal Energy Regulatory Commission, testified at a hearing that she has "ordered a full internal review of the chain of custody of all documents," in the wake of a preliminary report issued by the Energy Department's Inspector General Gregory Friedman.

The report issued Wednesday found that at least one grid-related presentation that FERC staff created "should have been classified and protected from release at the time it was created," and suggested that the commission doesn't have adequate controls for identifying and managing sensitive material.

In March, The Wall Street Journal reported that a FERC analysis found that the U.S. could suffer a coast-to-coast blackout if saboteurs knocked out nine of the most critical electric-transmission substations in different areas of the country.

In February, the Journal reported on what had been a little-noticed gun attack in April 2013 at PG&E Corp.'s Metcalf substation near San Jose, Calif., that funnels power to Silicon Valley, and quoted Jon Wellinghoff, the former chairman of FERC, as calling it "the most significant incident of domestic terrorism involving the grid that has ever occurred" in the U.S.

Reached by phone in California where he now practices law, Mr. Wellinghoff said the analysis was neither classified nor new.

"This has all been out there for years," he said. He briefed many senior administration officials about the analysis, he added, and no one "said to me that they believed any of it should be classified."

"FERC simply did an analysis to confirm what's already been known for years and years and years," Mr. Wellinghoff said.

Earlier Thursday, PG&E said it would offer a $250,000 reward for information resulting in the arrest and conviction of people who attacked the Metcalf substation.

At a separate event in Washington on Thursday, a senior White House official stressed that the information should have been classified.

"You saw yesterday the IG report said it should have been classified and restricted use," said Rand Beers, deputy assistant to President Barack Obama for homeland security. "I think that's at least the starting point."

While his staff had been briefed on the analysis last summer, Mr. Beer--who assumed his position in January--wasn't briefed until the Journal's article in March. Mr. Obama was also briefed after its publication, Mr. Beers said.

FERC has said it would enact new rules for physical security of key substations this summer.

The Senate hearing before the Senate Energy and Natural Resources Committee Thursday was titled, "Keeping the lights on--Are we doing enough to ensure the reliability and security of the U.S. electric grid?" But much of the discussion at the beginning of the hearing was about the public dissemination of information about the grid's vulnerabilities, which has been criticized by lawmakers including Sens. Mary Landrieu, (D., La.), chairman of the committee, and Lisa Murkowski of Alaska, the ranking Republican on the panel.

"While there may be value in a general discussion of the steps we take to keep the grid safe, the publication of sensitive material about the grid crosses the line from transparency to irresponsibility," Ms. LaFleur said in her written testimony.

A spokesperson for Dow Jones, the parent company of The Wall Street Journal, said in a statement that the publication is standing by its reporting: "We believe The Wall Street Journal's reporting on this important national issue has been responsible and appropriate."

Ms. LaFleur, who was named acting chair of FERC in November upon the retirement of Mr. Wellinghoff, said the Energy Department's IG office would determine whether anyone broke any rules or laws.

"I have no reason to believe there is a criminal case," Ms. LaFleur said in response to a question.

Ms. Murkowski said in an interview that she is considering legislation that could somehow penalize the source of the leaked information.

"If we need to put in provisions that say releasing information like this is subject to sanction or something like that, that is something that we're looking at," Ms. Murkowski said. She wouldn't comment on the source of the leak.

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Greenwire
April 10, 2014

REGULATORS, OVERSEERS DEFEND GRID PROTECTION AMID DATA LEAK

Hannah Northey, E&E reporter

Top grid overseers today reassured a powerful Senate committee that the private electric industry is doing enough to protect the U.S. electric grid from cyber and physical attacks, solar storms and severe weather -- even as they moved to plug a high-profile information leak about grid vulnerabilities.

"We are doing enough, we're doing the right things ... and on a prioritized basis," Gerry Cauley, president of the industry-led nonprofit North American Electric Reliability Corp. (NERC), told the Senate Energy and Natural Resources Committee today.

Senators are looking into energy security measures amid findings that federal regulators mishandled grid models at the Federal Energy Regulatory Commission that should have been more tightly classified. After a high-profile, military-style attack on California's grid last year, FERC staff modeled vulnerable substations -- and that information found its way into The Wall Street Journal in a March 13 story.

Gregory Friedman, the Department of Energy's inspector general, yesterday issued an alert outlining how modeling studies are widely disseminated among federal workers, some of whom may not have security clearances.

Cheryl LaFleur, FERC's acting chairwoman, told reporters today that her agency has conducted a complete analysis of the documents that were created -- using paper and computer evidence -- and turned it over to DOE's inspector general. Some of the information was labeled "critical energy infrastructure information" under FERC regulations, and staffers signed nondisclosure agreements to view the data, she said.

FERC regulations provide penalties for wrongful use of information by agency employees, and for the critical energy infrastructure information that would depend on the terms of the nondisclosure agreement signed, she said. Former employees, she added, are governed by ethics rules under the Office of Government Ethics that relate to the use of data for material gain.

"We don't have criminal authority in that area," she said. "If that ever happened, we would have to go to the Department of Justice."

LaFleur said she might know how the information was disseminated.

"I think I have a good idea on how the information was disseminated based on documentary evidence, and memories that exist at the commission," she said. "I think there are others who are no longer at the commission who may have had meetings that I'm not aware of, so I would not pretend to know of the complete universe of everything that might have happened."

LaFleur said she had no reason to believe the data leak would trigger a criminal case, adding that it would be referred to the Department of Justice if that was the case.

The acting chairwoman declined to comment on whether former FERC Chairman Jon Wellinghoff released the report. "I cannot confirm that," she said. "That's somebody else's job, and it's the inspector general who's looking at that."

LaFleur told the Senate committee she is "meticulously" following Friedman's recommendations to protect information.

Sen. Lisa Murkowski of Alaska, the panel's ranking Republican, said her staff will continue to collect information about the purpose and intent of the grid model FERC staff made that ended up in the newspaper.

Senators also grappled with potential vulnerabilities that the California attack revealed, as well as challenges stemming from the country's growing reliance on natural gas as coal and nuclear plants retire and new U.S. EPA clean air and water rules kick in.

LaFleur and Cauley told Senate Energy and Natural Resources Chairwoman Mary Landrieu (D-La.) that the country's system for creating reliability standards -- in which NERC crafts standards through a stakeholder process for FERC's approval -- has evolved over the past eight years and is working.

Landrieu said the California attack was the "most serious attack ever" on the grid and probed why no cameras were focused on the outside perimeter when the attack last April disabled transformers at Pacific Gas and Electric Co.'s Metcalf power substation near San Jose, Calif.

Cauley said that the event was a "turning point" that has brought attention to new grid security issues in the industry, and that there has been a "change in perspective" on both cameras and lighting.

"There are opportunities to improve that," he said.

Sue Kelly, president and CEO of the American Public Power Association, agreed the system is working and evolving but said more could be done.

"We're moving out of pimply adolescence into early adulthood," Kelly said.

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Associated Press
April 10, 2014

ENERGY REGULATOR: STEPS UNDERWAY TO PROTECT GRID

Matthew Daly

WASHINGTON (AP) — The top federal energy regulator says her agency is taking steps to improve handling of classified national security information, following a report that officials improperly allowed widespread access to a document that outlined specific physical threats to the nation's electric grid.

Cheryl LaFleur is the acting chairwoman of the Federal Energy Regulatory Commission. She told the Senate Energy Committee Thursday that employees are "wiping and scrubbing all databases" among steps to protect sensitive information.

The commission also has directed a nonprofit entity that oversees electric reliability to develop physical security standards for the grid by early June.

The Wall Street Journal reported last month that a secret federal analysis indicated that a coordinated terrorist strike on just nine key electric transmission substations could cause power outages across the country.

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SNL Energy

April 10, 2014

SENATORS QUESTION FERC INFORMATION SECURITY MEASURES IN SYSTEM RELIABILITY HEARING

By Esther Whieldon

The chairman and ranking member of the U.S. Senate Committee on Energy and Natural Resources on April 10 questioned what FERC is doing to ensure information about the security of the national grid is kept under lock and key in light of the recent information leak about transmission system vulnerabilities.

Also during the committee hearing, FERC Commissioner Philip Moeller said the agency is looking into whether electric markets should pay more for generation that can store its fuel supplies on site in the wake of cold snaps and electricity and natural gas market price spikes this past winter.

The first panel of the hearing focused on electric reliability, including how to bolster the grid against new and emerging physical and cyberattacks. The second panel addressed the adequacy of the generation and transmission system going forward in the face of plant retirements and the nation's growing dependence on natural gas-fired generation.

The testimony of the two panels of witnesses garnered few surprises because many of the same issues had been covered in a recent FERC technical conference about the performance of the bulk power system and electricity market over the winter.

Many of the questions posed by committee members involved concerns about energy price spikes, power plant retirements and whether the system is equipped to handle the challenges ahead.

The first question following the morning panel's testimony was directed at FERC Acting Chairman Cheryl LaFleur in response to an alert released the night before by the U.S. Department of Energy Office of Inspector General, which found FERC may not have adequate methods for identifying and handling classified national security information.

The inspector general launched the investigation in March after The Wall Street Journal wrote about leaked FERC materials that found the sabotage of as few as nine key substations would be enough to plunge the country into darkness for weeks, if not months. The story about the FERC transmission study triggered ranking member Sen. Lisa Murkowski, R-Alaska, to call on the inspector general to investigate how the information got out in the first place.

The report came as the utility industry is facing increasing pressure to bolster critical electricity infrastructure against physical attacks, such as those that occurred in California and Arkansas in 2013.

Committee Chairwoman Mary Landrieu, D-La., asked at the hearing what FERC is doing to respond to the inspector general's alert and any additional steps the commission is taking "to make sure this doesn't happen again."

The commission is "meticulously following the instructions of the inspector general's management alert," including gathering paper copies; wiping and scrubbing all databases and computers and any portable devices; and "reaching out to former employees, including our former chairman, and trying to get our arms around any information that may be out there," LaFleur said.

FERC also sent out an immediate reminder to all employees of the regulations that govern information security, LaFleur said. "I also immediately ordered a full internal review of the chain of custody of all internal documents," including when they were created.

"Ultimately, what we need to do is develop a crisp and clear internal process so we understand what information we're creating and have a process where the right professionals get to weigh in on what level of classification it should have," LaFleur said.

Later, Murkowski said that while it is good that the commission sent out a notice to employees, "that may be an area that you need to look to more critically."

The senator said she has instructed her staff to send FERC questions about the handling of documents and supporting materials, such as those referred to by the inspector general.

"I'm also going to have some questions outside of the hearing about the inception of the study itself and its uses," Murkowski said.

She added, "I'm not going to be seeking sensitive information about the findings of the study or the merits of the so-called modeling upon which it was based, but I will have questions about the manner in which the study was conceived and how documents and the information concerning it were handled — how they were intended to be used and were, in fact, used."

"Well, you absolutely will have our cooperation," LaFleur said. A lot of the questions may be what "we've been asking ourselves."

LaFleur said she thinks the agency already has a very strong culture in this area. "Of all the decades I've been dealing with FERC, I've never heard a rumor or leak of all the confidential information that FERC deals with day to day. ... We absolutely need to learn lessons on what happened here, but I think we deal with confidential information in our dockets all the time."

That said, the culture and respect for confidentiality has to start at the top, LaFleur said.

Legal ramifications of the leak

After testifying, LaFleur told the press in regards to the information leak that she has no reason to believe "that there's a criminal case, and that would be something that would be decided if something were referred to the Department of Justice."

Some of the information that was leaked had been labeled as nonpublic critical energy infrastructure information, which means people would have had to sign nondisclosure agreements. Whether the rules or laws associated with such agreements were broken is "something the inspector general would decide," LaFleur said.

As for the sanctions that the person who leaked the information could face, she said FERC regulations allow penalties to be imposed for wrongful use of information. For example, if the person is a current employee, the information leak could have "employment consequences."

"I think I have a good idea on how the information was disseminated based on documentary evidence and memories that exist at the commission," LaFleur said. "I think there are others who are no longer at the commission who may have had meetings that I'm not aware of, so I would not pretend to know the complete universe of everything that might have happened."

LaFleur also noted that former employees are governed by ethics rules overseen by the Office of Government Ethics that relate primarily to use of information for material gain. "For example, using stuff that happened when you worked for the government to make money afterward," she said.

When asked whether former Chairman Jon Wellinghoff was the source of the leak, LaFleur said, "I cannot confirm that. ... That's somebody else's job, and it's the inspector general who's looking at that."

Efforts to keep the grid secure

Also during the hearing, American Public Power Association President and CEO Sue Kelly contended that utilities have had to plan for physical threats for decades. Shooting at substations unfortunately is not uncommon, but the attack on the Metcalf substation in California demonstrated a level of sophistication not seen before, she said.

NERC Chairman and CEO Gerry Cauley noted that companies are already required to report suspected attacks to NERC and law enforcement authorities. He said the existing Electricity Sub-sector Coordinating Council

provides a very robust public-private partnership on information-sharing and coordination related to grid vulnerabilities and threats.

"We are doing enough. We're doing the right things" and doing them on a prioritized basis, Cauley said.

He also said FERC has the authority it needs to direct NERC to create a standard, as recently demonstrated when it ordered NERC to develop and propose mandatory physical security standards, Cauley said.

Providing the state regulatory perspective was Colette Honorable, president of the National Association of Regulatory Utility Commissioners. Honorable, who is also chairman of the Arkansas Public Service Commission, noted that states have the challenge of weighing the cost of every security or reliability improvement against the risks and benefits they will bring to consumers.

Are capacity markets working?

Some of the hearing focused on what happened over the winter with energy prices.

Sen. Rob Portman, R-Ohio, asked LaFleur to explain a statement she made during the recent FERC winter performance technical conference in which she voiced concern about the prices. While RTOs must do whatever it takes to ensure reliability, "when you see these price spikes, it's a symptom that protecting reliability is causing this issue," she said at the FERC event.

LaFleur explained during the hearing that the nation is in "one of the biggest supply changes" it has ever seen and that the conference looked at how to get the electricity wholesale market rules right and have the gas infrastructure in place to avoid price spikes of the kind seen over the winter.

"We have to make sure that the rules are ... properly rewarding the baseload [generation] facilities that are very stressed by the short-term gas prices," LaFleur said. "We're seeing a lot of retirement of baseload that could ultimately be detrimental to reliability."

Later in the hearing, Moeller said there is an ongoing discussion on what to do with the markets in the wake of this past winter.

"I can't tell you where we're going because we're not even sure what the options are right now," Moeller said. "But at least some of the discussion has been [whether we should] assign a higher value to those generating resources that have onsite fuel," such as fuel rods or coal. "Is there greater value there that's not being recognized? That's one of the concepts that's out there," he said.

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E&E Daily
April 11, 2014

'POLAR VORTEX' FUELS POLITICAL WHIRLWIND

Hannah Northey, E&E reporter

This winter's deep freeze, also known as the "polar vortex," continued to fuel energy debates in the Senate yesterday as conversation about grid reliability spilled into fretting over the closure of large baseload coal and nuclear plants across the country.

"We're setting ourselves up for a major reliability crisis," warned Sen. Joe Manchin, a Democrat from coal-heavy West Virginia.

During a hearing in the Energy and Natural Resources Committee, Manchin peppered regulators, grid overseers, energy companies and interest groups with questions about looming U.S. EPA rules and coal plant closures -- an issue that system planners have already said is a point of concern in some regions.

Sen. Rob Portman (R-Ohio) pushed Cheryl LaFleur, the acting chairwoman of the Federal Energy Regulatory Commission, for assurances that the commission is keeping a close eye on grid reliability in 2016, when U.S. EPA's landmark mercury and air toxics standards take effect.

Although LaFleur said FERC is providing comments to EPA, Portman said he wants to agency to do more, including modeling grid stability to prevent brownouts and blackouts. "We've gone through a tough winter, admittedly; we really stressed the system," Portman said. "We're at a point where we need your input on the front end."

FERC Commissioner Philip Moeller said the country is undergoing an unprecedented energy shift in a very short time frame and a more "formal review" -- one that includes FERC, EPA and nongovernment entities -- is needed to analyze plant retirements and additional transmission that may be needed.

Moeller also said grid operators in the Midwest are struggling to gauge whether they will have sufficient capacity to handle peak weather during the next five years. The Midcontinent Independent System Operator Inc.'s footprint is expected to face a deficit of 2 gigawatts in the summer of 2016, a figure that has been revised downward from 6 GW, Moeller said.

The question of whether the markets are allowing baseload coal and nuclear plants to be pushed out again surfaced at yesterday's hearing -- a slowly emerging theme at many technical conferences at FERC.

Cheryl Roberto, who leads the Environmental Defense Fund's Clean Energy Program, warned against attributing the challenges that coal-fired generation faces either solely or largely to new environmental standards. A surge of cheap gas, low demand for electricity and the rising cost of coal are all reasons for plant closures, she said, adding that nuclear plants are also facing stiff competition from cheap gas.

"These trends started well before EPA issued its new air pollution rules," she said.

But what Roberto characterized as a slow evolution was cast as a market malfunction by industry officials.

Nicholas Akins, president and CEO of Ohio-based American Electric Power Company Inc., said the markets are broken and failing to attract capital for a new mix of energy resources as the grid becomes increasingly reliant on natural gas and pushes out baseload power sources. The markets need to be fixed by January 2015, he added. AEP, notably, is slated to retire more than 6,500 megawatts of coal-fired generation -- mostly in mid-2015 -- and will not add new capacity in the near term, Akins said.

Akins pointed to January's deep freeze as a warning signal.

"A month ago, I made headlines when I said 89 percent of the generation that AEP will be retiring in 2015 was called upon to meet electricity demand in January. That is a fact," he said. "The weather events experienced this winter provided an early warning about serious issues with electric supply and reliability. This country did not just dodge a bullet -- we dodged a cannonball."

Akins pointed to a host of nuclear plants that have recently announced early retirements, including the Kewaunee plant in Wisconsin and the Vermont Yankee plant in New England, and to Exelon's recent announcement that it would consider closing efficient nuclear plants that are no longer profitable by the year's end.

Akins' comments aligned with those of Exelon Generation President and CEO Kenneth Cornew at a Platts conference in Nevada this week. There, Cornew said competitive market rules and state and federal energy policies have failed to keep pace with an influx of cheap gas, rapid expansion of renewables, "smart grid" development, behind-the-meter technologies and low demand growth.

And Akins also pointed to the polar vortex, noting that grid operators in early January were struggling to keep up with demand amid a series of cold snaps across much of the East Coast -- a challenge aligned with a number of large gas plants unable to access fuel. During that time, he said, reactors with 18 to 24 months of fuel on-site kept running.

"The extreme cold highlighted for many what Exelon has known all along -- that a diverse fleet of generation that includes high-performing baseload power plants that have firm fuel, such as nuclear, is critical to grid reliability," Cornew said.

Michael Kormos, executive vice president for operations for PJM Interconnection, said after the hearing that grid operators are cognizant of the retirements and the grid's growing reliance on gas and are asking whether it may be appropriate to put firm fuel requirements on certain units -- a standard that would be easy for a nuclear or coal unit to comply with.

"That will be the question going forward ... during the winter months, do we need to assure that we have a set of units, of capacity, that has firm fuel commitments?" Kormos said. "What we realize on the gas side is that while they could, they don't necessarily have that."

If such a step is needed, Kormos said grid operators may need to identify what resources would fit under this category -- especially during winter months -- and whether to pay them a higher premium.

"Nuclear may very well fall under that category," he said, as would coal, natural gas with firm contracts and year-round demand response. "I think the debated question is if we need it. We may have enough [firm capacity] as it is."

Asked about the issue of reliability gaining more political attention, Kormos said that's not his desire.

"My hope is that everyone can stay above the fray," he said. "We're talking about reliability."

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Electric

Restructuring Today
April 10, 2014

MARKET EXPERTS REVEAL BIG CHANGES IN VALUE, LIKELY POLICIES

Capacity markets will see some changes, but that is only part of the picture as the organized markets deal with a changing landscape, experts said on a Restructuring Today webinar yesterday. ISO-NE's energy markets alone saw a total value of $5.1 billion this past winter, which compared to just $3 billion in the most recent capacity auction, said the ISO's Principal Analyst of Market Development Andrew Gillespie.

That capacity auction was the highest priced the region ever saw because it was the first without a surplus (RT, Feb-6).

The region saw that much money despite the Winter Reliability Program, which effectively transferred the cost of procuring oil out of the energy market through an out-of-market payment, noted New England Power Generators Assn (NEPGA) President Dan Dolan. LMPs topped out around $450/MWH, while PJM and NYISO both saw costs exceed the $1,000/MWH price cap, he added.

Energy markets represent a higher share of the total cost of wholesale markets, but the capacity markets are designed to ensure they can reach an administratively set reserve margin target. That means peaking power plants and DR, which are not called on nearly that much, get almost all of their revenue from the capacity market.

"On paper, you'll always produce a stack that meets the installed reserve requirement," said FirstEnergy CEO Anthony Alexander. "But when the stack is indifferent to exactly the quality of those assets, then you have to be concerned over time as to whether or not it will in fact produce the results you want."

Alexander wondered whether the new generation will get built, whether imports and DR will be there when they are needed and whether his firm's region, PJM, will have to rely on combustion turbines for more than their historical peaking use.

The capacity markets need to better reflect the value that baseload power plants provide to the grid, Alexander said. Now they pay everything the same even though baseload power plants are expected to be up and running almost all the time, while some resources are only dispatched a few times a year, he added.

The Regulatory Assistance Project's Senior Adviser Michael Hogan argued that capacity markets need to change to better reflect flexible resources as the industry works to integrate renewables. But capacity markets should decline in importance as the importance of energy markets improve and demand becomes more active in them, he said.

They should evolve into a strategic reserve service as energy markets get stronger and reserve-margin targets are altered.

The current one-day-in-10 reliability standard is a practice that goes back decades in the industry, but Hogan quoted Harvard University Economist William Hogan as showing that it far exceeds the "economically optimal reserves."

The 24-hours-of-outages-in-10-years standard the capacity markets are meant to maintain translates into an implied value of loss load (VOLL) that is more than double the high end of the estimates that come in at around $15,000/MWH.

The optimal reserves refers to the figure where customers are paying for enough generation that scarcity pricing is relatively rare, but they are not overpaying for reliability well above their VOLL. That optimal reserve could lead to about five hours more of outages a year, but it would come with lower costs.

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SNL
April 10, 2014

FERC FINDS SIERRA PACIFIC NEEDS TO PAY FOR TRANSMISSION PROJECT IMPACTS ON POWER PLANT

By Glen Boshart

FERC on April 9 agreed with the owner of a Nevada power plant that Sierra Pacific Power Co. should foot the bill for the studies and equipment that needs to be installed at the plant to mitigate damage that could occur due to the completion of a new transmission line.

Newmont Nevada Energy Investment LLC owns and operates the 203-MW TS power plant in Eureka County, Nev. The coal-fired plant, which began commercial operation in May 2008, is interconnected with the Sierra Pacific transmission system and provides 80 MW to Sierra Pacific under a contract that ends in 2022, according to SNL data.

The dispute arose once it became apparent that the completion of the 235-mile, 500-kV One Nevada Transmission Line Project, or ON Line, could cause harm to the TS plant. The new line, which became operational Jan. 1, provides a direct interconnection between the Sierra Pacific transmission system and the system operated by Nevada Power Co. Studies done before the line was completed determined that capacitors to be installed in connection with that transmission project could create oscillations at sub-synchronous frequencies that in turn could cause turbine shaft failures at interconnected generators.

Newmont claims that Sierra Pacific initially agreed to pay for the blocking filters needed to prevent such damage, but later told Newmont that the generator would have to bear those costs. Crying foul, Newmont took the matter to a state court, which granted a preliminary injunction prohibiting Sierra Pacific from operating the capacitors at potentially damaging levels until the new blocking filters are installed — a step that is expected to be completed by June 30. That court also said FERC or an arbitrator would need to determine which entity should pay for the cost of those filters.

Newmont chose FERC. In a December 2013 complaint, the generator asked FERC to require Sierra Pacific to pay the $11.2 million cost of studying the issue and installing the blocking filters, arguing that the costs are caused by Sierra Pacific's actions and therefore the utility should be responsible for paying them.

Sierra Pacific, on the other hand, contended that because the blocking filters will physically be on Newmont's side of the point of interconnection, the costs of studying and mitigating the sub-synchronous resonance effects of the capacitors are Newmont's responsibility. Standard industry practice and FERC precedent require each party to protect the equipment on its own side of the interconnection facilities from the risks of interconnected grid operations, the utility reasoned.

Siding with Newmont, FERC determined that the disputing parties' interconnection agreement requires the transmission provider to pay the costs to study and install the necessary sub-synchronous resonance mitigation measures at the TS power plant.

"Here, but for Sierra Pacific's decision to add series capacitors to its transmission system to provide for 70% compensation, Newmont would not need to install blocking filters to mitigate potential sub-synchronous resonance effects on its generator," the commission noted.

Moreover, FERC said those filters are not needed due to the interconnection of a generator to the transmission grid but rather because of modifications to the transmission system itself. Consistent with precedent, FERC said the transmission provider must compensate transmission customers "for the costs of any changes to their facilities caused by changes in or modifications to the transmission provider's transmission system."

The ON Line project is the first of the three-phase, 510-mile Southwest Intertie Project, or SWIP. The other phases include SWIP-North, which would extend north to southern Idaho, and the Southern Nevada Intertie Project, which would run about 60 miles south from north of Las Vegas to Boulder City, Nev. The ON Line project received a $343 million loan guarantee from the U.S. Department of Energy.

Sierra Pacific is a subsidiary of MidAmerican Energy Holdings Co. Newmont is a wholly owned subsidiary of Newmont USA Ltd., which owns and operates gold mining and processing facilities in northern Nevada. (EL14-16).

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SNL Energy
April 10, 2014

EXPERTS: UTILITY INDUSTRY STILL NOT SOLD ON ENERGY STORAGE, BUT IT SHOULD BE

By Amy Poszywak

Though energy storage technology has made significant inroads into the nation's energy system, challenges remain, including convincing the utility industry and its regulators that it will work.

"You have a whole generation of utility people that have grown up with the notion that storage doesn't work, is not reliable, is too expensive and is always going to be 20 years away," Jeff Gates, managing director of commercial transmission at Duke Energy Corp., said during a panel on grid integration and energy storage April 9 at the Bloomberg New Energy Finance Summit in New York City. "Getting people to realize that storage is being built now, and that it's being built in cases where there are not subsidies for it and it's not just [U.S. Department of Energy]-funded pilots, and that real projects are getting done, is one of the biggest challenges ahead."

With some data that may help convince skeptics, Bloomberg New Energy Finance expects that the U.S. will have 2,660 MW of stationary energy storage by 2020, marking a significant increase from the 408 MW that BNEF calculated as being in place in 2013. BNEF expects cumulative global stationary energy storage to grow from 1,225 MW in 2013 to 9,825 MW in 2020.

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NBC Bay Area
September 24, 2014

FORMER GOVERNMENT POWERBROKERS CRITICIZE SECURITY AT PG&E

Past CIA director and former federal energy regulator troubled by lack of security advancements at PG&E substations

By Tony Kovaleski, Liz Wagner and Mark Villarreal

Two former Washington, D.C., powerbrokers have criticized Pacific Gas & Electric Company for failing to aggressively beef up security as promised at critical electric substations that deliver power to Northern and Central California.

"Overall, it looks like there is essentially no security," R. James Woolsey, energy specialist and former director of the Central Intelligence Agency, said in reaction to an NBC Bay Area undercover investigation.

Woolsey and Jon Wellinghoff, the past chair of the Federal Energy Regulatory Commission (FERC), reviewed the Investigative Unit's findings, which exposed potential vulnerabilities in PG&E's protection of critical substations.

Both men concluded that the utility company has not acted fast enough to make significant upgrades to security for its electric infrastructure a year and a half after the attack on the Metcalf substation in South San Jose. During that April 2013 attack, gunmen fired 100 high-powered rifle rounds into 17 high-voltage transformers, shutting down the facility for almost a month. The attack had the potential to knock out power to much of Silicon Valley.

"For 18 months to pass after Metcalf, and for us not to be in the midst of a major upgrade in resilience and security of our major transformer farms, I think is inexcusable," Woolsey said.

Response to Power Station Attack Criticized

PG&E promised to increase physical security at its critical substations by spending $100 million over the next three years, but what NBC Bay Area witnessed fell short of aggressive.

"It's surprising that they haven't done more at this date," Wellinghoff said.

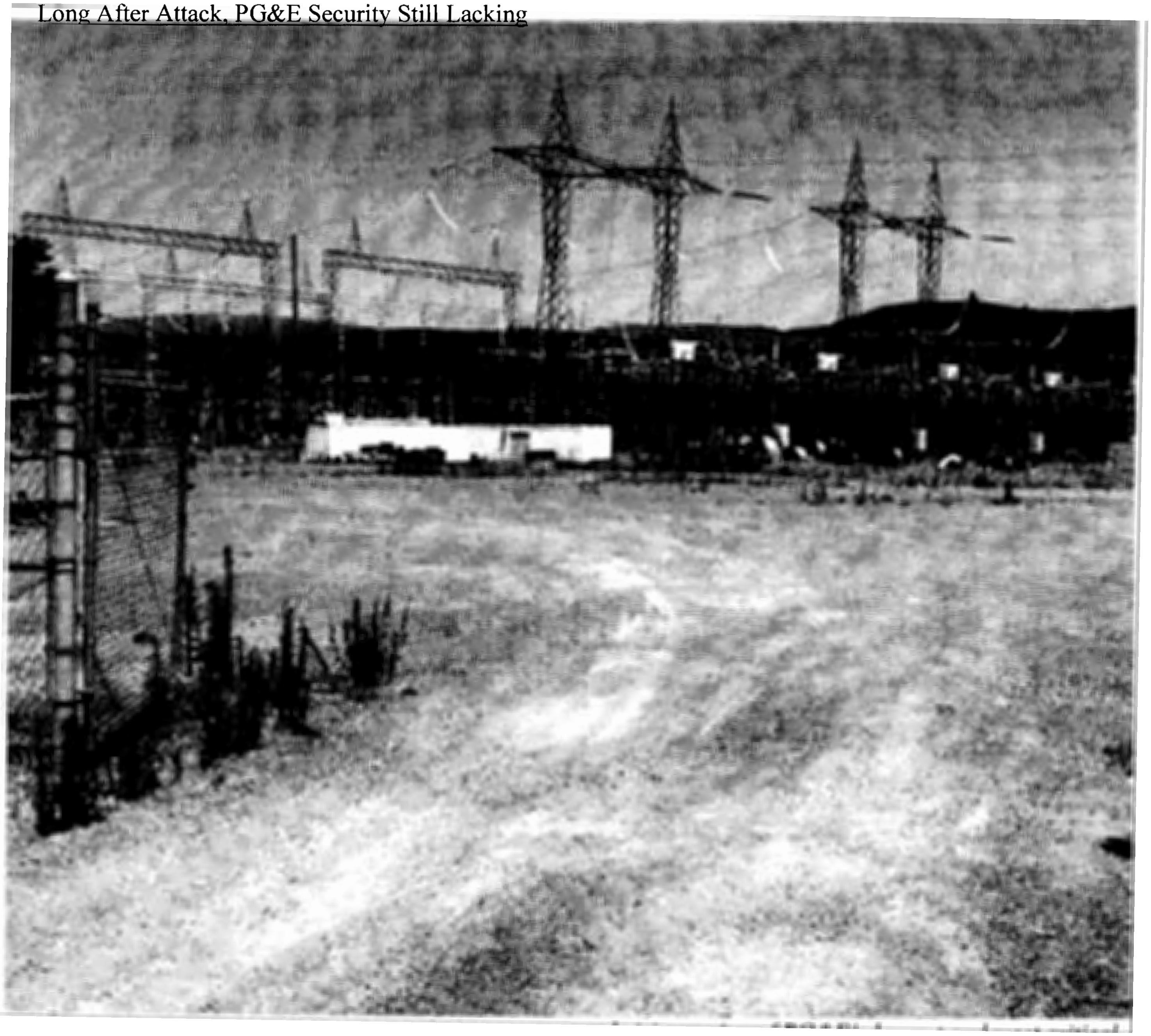
Utility executives and congressional representatives have called the Metcalf incident a game-changer. And although the Federal Bureau of Investigation has not officially labelled the attack an act of terrorism, many high-ranking federal officials have speculated that it may have been a trial run for a more robust attack.

"It scared me to death," Wellinghoff said. "And it scares me today because it is evident at least from the reporting that you have done that we have not taken substantial steps to in fact protect the physical security of these facilities."

Metcalf could be repeated at all the sites you showed me in less than 15 minutes.

The Investigative Unit made 14 unannounced visits to nine of PG&E's largest and most critical substations across the state. The observations lasted 30 minutes to one hour in the early morning, during the day and late at night. Staying on public property, NBC Bay Area was able to get close enough at some locations to use a thermal imaging camera and identify high-voltage transformers in the dark.

Long After Attack, PG&E Security Still Lacking



NBC Bay Area drove 1,600 miles and made 14 unannounced visits to nine of PG&E's largest and most critical

substations to put the corporation's promise of enhanced security to the test. Chief Investigative Reporter Tony Kovaleski goes undercover in a story that aired on September 22, 2014.

One substation provided an ideal hiding place just outside the fence line; the Investigative Unit was able to stand on a hill covered in thick trees and bushes and look directly at a row of transformers 50 yards away. PG&E had promised to remove potential hiding places near its critical substations.

While security vehicles were present at seven of the nine sites, most stayed stationary and did not patrol the perimeters of the facilities. One security officer answered questions when he saw an NBC Bay Area camera, but didn't ask for names or the purpose of the visit. Security guards were not present at two of the nine substations.

A military veteran with two decades of experience working in special operations reviewed the entire NBC Bay Area investigation and concluded: "Metcalf could be repeated at all the sites you showed me in less than 15 minutes."

He asked not to disclose his name because of potential future security work.

The NBC Bay Area investigation included observations and insight from a military veteran who worked in special operations for two decades and was trained to make threat assessments.

Since last April's attack, both Woolsey and Wellinghoff have pushed for an overhaul of how the power grid is protected. The men agree that the risk of significant damage is too high to be ignored.

"This is about the survival of the country and our society and our way of life," Woolsey said. "It's not about the lights being out a day or two. We are talking about the end of American civilization if this is not done right."

Government reports dating back decades show that these risks are not new. In 1990, the Congressional Office of Technology found that electric power systems are "vulnerable to saboteurs with explosives or high powered rifles" and that major cities and even multi-state areas "could lose virtually all power following simultaneous

attacks on three to eight sites." The report also concluded that utility companies are taking some positive steps to secure their infrastructure but "generally consider the risk to be too low to warrant large expenditures."

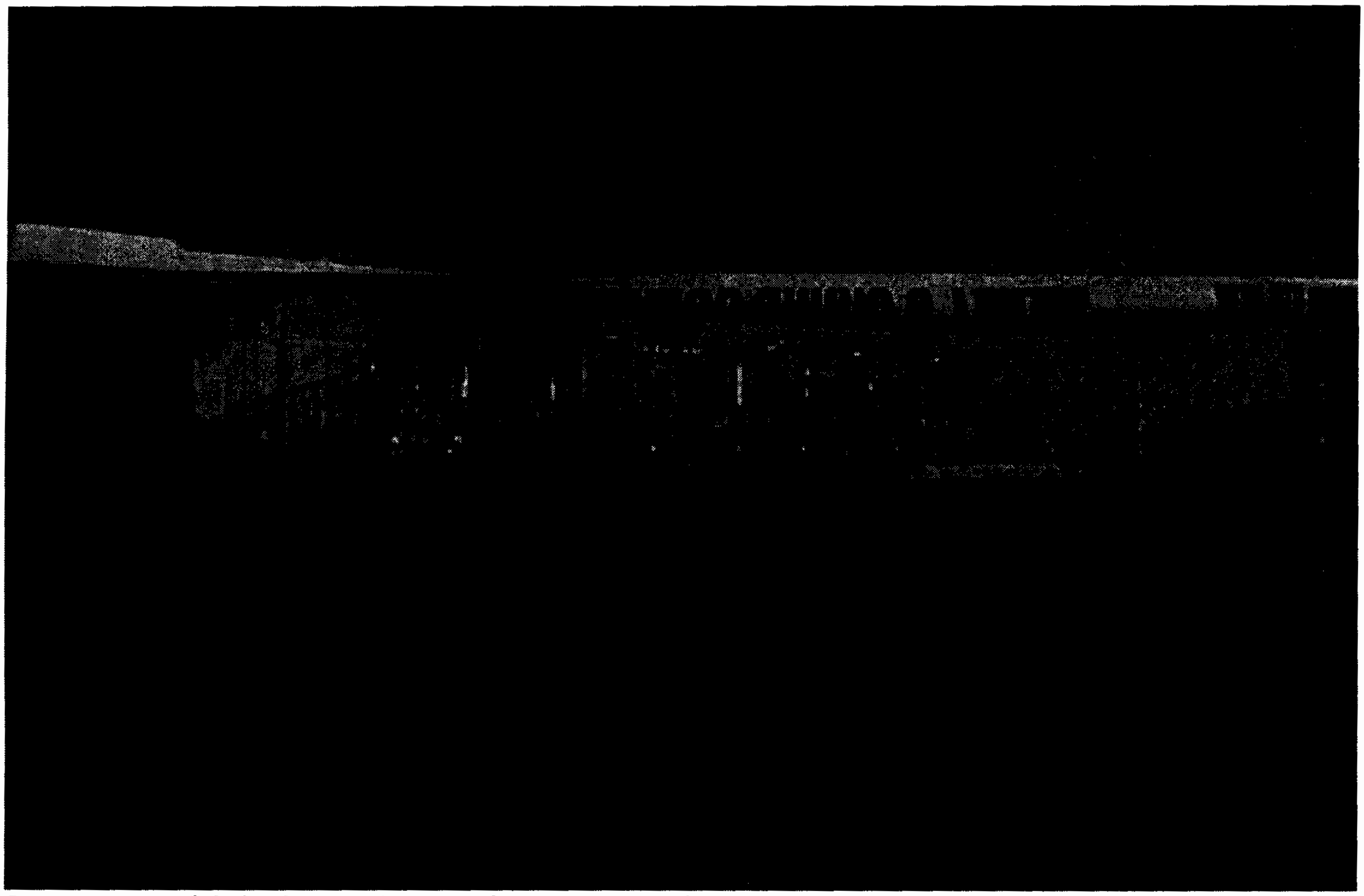
Stephanie Douglas, PG&E's head of corporate security and former Special Agent in Charge of the FBI's San Francisco office, calls the protection of the critical substations "high-level security." She pointed to upgrades that include onsite guards 24 hours a day, enhanced security cameras and around the clock remote monitoring.

"Our security isn't overly visible to somebody just on the outside of the fence," she said.

Promises to increase security didn't stop a break-in at the Metcalf facility in August. A full 17 months after the multi-round rifle attack, vandals cut their way through perimeter fencing, and without being detected, stole construction equipment from the substation.

The heist happened in front of PG&E's cameras, while two guards patrolled onsite and crews reportedly monitored from an offsite security system. The incident went unreported for five hours.

"I think that [because] it was at the same site that it ought to be a matter of some embarrassment," Woolsey said.



In August, vandals broke into the Metcalf substation and stole construction equipment. The security breach happened in front of PG&E's upgraded security equipment and two security guards. NBC Bay Area

New Security Breach at Metcalf Substation

Nine days before that second security breach, Douglas said that the utility was making security improvements every day to prevent another "Metcalf attack" from happening. Though she declined a request for an interview following the break-in, Douglas stood by her original answers to NBC Bay Area's questions.

"I can't guarantee anything," she said, "but we are working hard every day to make sure our facilities are safe and secure."

In March, nearly a year after the Metcalf attack, FERC directed the utility industry to address risks due to physical security vulnerabilities.

The commission is now seeking to approve the standards, which would force utility owners and operators to perform threat assessments of their substations and implement security plans if necessary. It is unclear when utility companies would be required to comply with those standards.

"In protecting the grid, it is very important that we learn from all experiences, including the recent events at the Metcalf station," FERC chair Cheryl LaFleur said in a statement to NBC Bay Area. "Protecting the reliability and resilience of the nation's electric grid is a core responsibility of the Commission and the entire electric industry."

Lawmakers in California and Washington, D.C., are also aiming to increase security responsibilities of PG&E and other electricity corporations. Woolsey and Wellinghoff are two heavyweight voices joining the growing chorus of officials pressuring utility companies to tighten their security networks.

"Not only have they not moved fast enough," Woolsey said, "to a very great extent they have not moved at all in any appreciably important way."

To view the video report go to: http://www.nbcbayarea.com/investigations/Former-Govt-Heavyweights-Criticize-Security-at-PGE--276203651-metcalf-attack-shooters.html

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Gas Daily
September 24, 2014

FERC PRESSES FOR DELAY IN ORDER 745 MANDATE

The Federal Energy Regulatory Commission is asking a federal appeals court to delay the effective date of a ruling that vacates a key order on demand response compensation until the Obama administration determines whether it will appeal the case to the US Supreme Court.

Beyond potential impact on market rules, the fate of Order 745 is key for power generators, as less participation by demand response resources in wholesale markets would likely mean more opportunities for natural gas-fired plants, which would in turn spur new demand for gas.

In seeking the delay, FERC warned of the potential consequences of the US Court of Appeals for the District of Columbia Circuit issuing its mandate to vacate Order 745, which required that DR receive the market price in wholesale energy markets. In a 2-1 decision, the court in May found that the rule infringed on the authority of the states under the Federal Power Act (Electric Power Supply Association v. FERC, 11-1486).

"Whether the opinion is read narrowly or broadly, its implementation will involve both setting new prospective rules and unwinding demand response participation in certain wholesale markets — a task with significant market and financial implications that go far beyond the typical burdens of litigation that courts ordinarily find inadequate to support injunctive relief," FERC said in a filing Monday.

FERC also raised questions as to how the DC Circuit's ruling compares with other recent rulings by appellate courts on the jurisdictional line between states and the federal government. Industrial consumers in PJM Interconnection, the DR provider EnerNOC and other supporters of the rule poised similar questions in support of staying the mandate Monday.

The filings followed the DC Circuit's decision last week to reject calls to review the case en banc, wherein a majority of judges did not favor reviewing petitions by FERC and others to do so. FERC and others have argued

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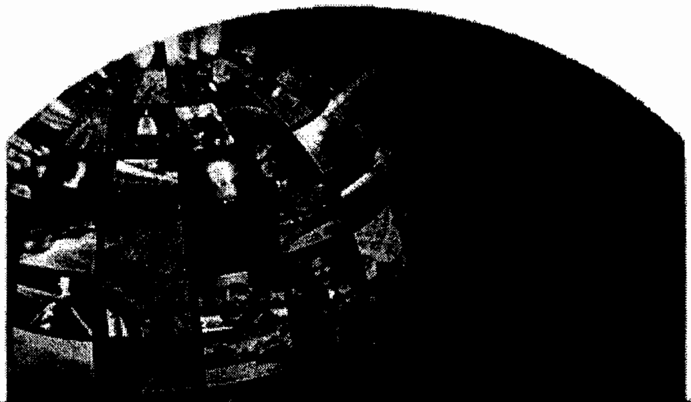

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Inside FERC
October 28, 2013

WELLINGHOFF DENIES DOWNPLAYING IMPACT OF EPA RULES, BEING INFLUENCED BY WHITE HOUSE

Chairman Jon Wellinghoff denied that he publicly downplayed the expected impact of environmental rules for political reasons in 2010, while at the same time suggesting that US regions outside of organized markets should take a "new look" at forming them.

In an October 1 letter recently obtained by Platts under the Freedom of Information Act, Wellinghoff said that no one within the Obama administration asked him to support Environmental Protection Agency rules for the power sector or sought to influence his opinion on how those rules would impact grid reliability.

"The commission has an important role in overseeing the reliability of the bulk-power system. I take that role seriously and have taken several steps to discuss issues concerning the EPA regulations and reliability with industry, EPA and DOE," Wellinghoff said, adding that "nothing I have heard or seen indicates that our grid has become unreliable or will do so due to EPA regulations."

Wellinghoff's October 1 letter responded to questions raised last month by Senate Environment and Public Works Committee ranking member David Vitter, Republican-Louisiana, who in a September 5 letter cited both internal EPA emails and public statements by Wellinghoff in raising concerns about the chairman's statements (IF, 9 Sept, 1).

Vitter said that after an October 2010 story in Politicocited Wellinghoff as saying federal officials were trying to minimize the impact of the power sector rules and that "the sky isn't falling," an EPA staffer said in an email to then-EPA Administrator Lisa Jackson that Wellinghoff had made "very helpful comments" in that story.

"From the communications it appears that on EPA's behalf, and perhaps direction, you publicly indicated that regulatory actions would not impact electric generation or grid reliability," Vitter said, adding that "these internal EPA email exchanges raise issues related to your role as an otherwise 'independent' commissioner on FERC."

But Wellinghoff in his letter noted that he was also quoted in the Politico story as saying that "we understand that there are certain problems that could occur if these regulations do in fact cause the closing of a number of coal plants, . . . but it doesn't mean that they can't be dealt with." He said he stood by this statement, and that "the appropriate vehicles for addressing the impact on electric reliability of the EPA rules in detail are the market rules and planning processes implemented by the independent regional transmission organizations and other regional transmission planning processes."

Wellinghoff went on to plug organized markets as a means of improving grid reliability and addressing potential issues, saying that "I would note that evidence and experience indicates that independent regional transmission organizations improve reliability in a region. However, since the institution of such markets are voluntary, I would urge that regions without organized markets take a new look at forming such a market structure."

More broadly, Wellinghoff said he had seen "no evidence" that EPA rules have led to compromises in grid reliability, and that staff at FERC, DOE and EPA "continue to participate in regularly scheduled meetings with reliability and planning authorities to discuss the industry's response to EPA regulations."

Wellinghoff also responded to Vitter's query as to whether the FERC chairman has "in any way facilitated what has been described as a war on coal." While the charge that the Obama administration is perpetrating a "war on

coal" has long been lobbed against EPA by industry groups and many lawmakers, it is a relatively new development that FERC has been brought in as a target.

While saying that it was unclear what Vitter was referring to in the question, Wellinghoff said he has not used the term and noted that FERC "does not have jurisdiction or authority over the types of fuel resources selected to be used in electric generating facilities that are interconnected to the bulk power transmission grid that is under our jurisdiction."

Said Wellinghoff, "the focus of my time at the commission has been to make the market rules non-fuel resource specific, so that all technically capable supply and demand resources can compete on a level playing field and the market can decide."

A spokesman for Vitter did not respond to a request for comment by press time on whether Wellinghoff's response addressed his concerns.

Bobby McMahon

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WELLINGHOFF TO JOIN LAW FIRM UPON EXIT FROM COMMISSION; DETAILS ON WORK UNCLEAR

Chairman Jon Wellinghoff will join the law firm Stoel Rives upon leaving the commission, the firm announced last week.

Wellinghoff told President Obama in May that he would step down as chairman once a replacement is confirmed by the Senate. An October 21 statement from the firm said Wellinghoff would join the firm "upon completion of his service at FERC."

In an email last week, Wellinghoff said that the announcement was made "due to the Stoel partners voting to make me a partner in the firm upon my departure from FERC." But he declined to provide further details on what he would do with the law firm, saying that the announcement was kept brief because "I did not think it was appropriate to discuss my transition to Stoel until it actually occurred."

Alan Merkle, chairman of Stoel Rives, said that Wellinghoff is a "terrific fit" for the firm, particularly in the renewable energy realm and in helping clients work on the cutting edge of energy. Wellinghoff will be based in the firm's San Francisco office, he said.

"I couldn't be more excited to have the chairman joining us," Merkle said October 21, calling him a "tremendous thought leader and a very good human being."

Merkle declined as well to discuss what Wellinghoff would do specifically once he arrived at the firm, given that he is still serving as FERC chairman. Since he announced his resignation, FERC officials have said that Wellinghoff is recusing himself from matters where appropriate and complying with applicable ethics standards.

While his term technically expired at the end of June, Wellinghoff is allowed to serve until the current session of Congress ends, which would leave FERC with only four commissioners until a new commissioner can be nominated and confirmed. Former Colorado regulator Ron Binz had been nominated to replace Wellinghoff, but he withdrew his name from consideration earlier this month after strong pushback from conservative groups and some lawmakers (IF, 7 Oct, 1).

The commission's 12th chairman, Wellinghoff has headed FERC since January 2009 and presided over major rulemakings on transmission planning and cost allocation, renewable energy, conservation and demand

response. His tenure also includes aggressive monitoring and investigation of energy market manipulation and restructuring of the commission's offices to emphasize infrastructure protection and policy and innovation.

Bobby McMahon

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INCREASING PARTISANSHIP IN WASHINGTON LIKELY CHALLENGE FOR FERC, FORMER CHAIRMEN SAY

The commission could face significant challenges trying to do business in the increasingly partisan environment that has taken hold in Washington, according to former chairmen.

Running a nonpartisan, effective agency in such a highly charged and dysfunctional atmosphere "is the biggest challenge," Betsy Moler said during a panel at the Energy Bar Association's Mid-Year Meeting in Washington October 24.

Moler, who headed FERC from February 1993 to June 1997, and others noted that the public visibility of the commission has increased significantly, particularly given the attention that former Colorado regulator Ron Binz attracted during his unsuccessful nomination bid. Following strong criticism from conservative and free-market groups and members of Congress, Binz this month withdrew his nomination (IF, 7 Oct, 1).

Moler expressed concern over the "the ugliness and the partisanship in this town these days," noting that FERC and congressional oversight committees had a positive relationship during her time in the chairman's seat.

"It wasn't war, and it wasn't gotcha. It was professional," she said, adding that it's unclear how the hyper-partisan nature of Washington will affect regulatory commissions over the long haul.

Joe Kelliher, who served as chairman for much of George W. Bush's second term as president, said this increased visibility is a big challenge for the commission going forward. "FERC is more public than it used to be," he said, noting that the commission is now subject to more public scrutiny and cannot likely retreat to a time when it was less visible.

In a sentiment echoed by the others, Jim Hoecker, who led the commission from June 1997 into 2001, touted the commission as doing professional and "craftsman-like" work in pursuing its energy policy mission in a technical and nonpartisan manner. "FERC should hold onto that obscurity a little bit," Hoecker said, adding that the next chair of the commission should take FERC's nonpartisan mission to heart.

Hoecker also expressed concern over FERC having less than a full slate of commissioners. Noting his time leading a four-person commission, he said "it was not pretty sometimes," adding that you have to work "doubly hard" because the commission could easily divide "in ways to make it impotent."

Also during the panel, Kelliher discussed what he saw as confusion at regional transmission operators over what kind of relationship FERC wants the RTOs to have with stakeholders. He said that "I think all the commission wants is for RTOs to listen to the stakeholders" but to not abdicate their responsibility.

"Stakeholders should react to an RTO initiative. They shouldn't tell the RTO what to do," Kelliher said, going on to say that a stakeholder process can produce a "Frankenstein's Monster."

Bobby McMahon

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HOUSE PIPE BILL 'DRACONIAN,' FERC OFFICIAL SAYS, AS STAKEHOLDERS DEBATE OTHER SOLUTIONS

A key FERC official last week warned that pending legislation that would set deadlines for agencies to issue gas pipeline permits could backfire. Meanwhile, the bill's sponsor is defending the measure but seems open to an alternate solution to speed permits that was backed last week by industry and environmental representatives.

"You push these people into a corner, they will deny you," Jeff Wright, director of FERC's Office of Energy Projects, said regarding resource agencies.

"You push them too far in a corner, they may issue conditions so strict that you would never want to make that investment decision and try to build that pipeline," he said October 24 at an Energy Bar Association conference in Washington.

Wright was referring to H.R. 1900, sponsored by Representative Mike Pompeo, Republican-Kansas.

The bill would require FERC to approve or deny a gas pipeline permit within one year of receiving a complete application. It also would require other agencies to approve or deny federal gas pipeline permits, such as Clean Water Act permits, within 90 days after FERC issues its environmental review of the project.

The measure also allows agencies to receive a 30-day extension from FERC if the agency shows it cannot otherwise complete the process and would be compelled to deny the permit. However, if an agency misses its deadline the permit would be deemed approved.

The bill provides permit deadlines only to projects that have gone through the FERC pre-filing process, an early environmental review that is intended to streamline the application process.

The House Energy and Commerce Committee approved the bill in July but the full chamber has yet to consider the measure.

Wright said he was thankful the committee had changed the bill to start FERC's 12-month clock at the time the commission receives all the needed application information, rather than when FERC announces the project to the public.

Pompeo made this change at the suggestion of Commissioner Philip Moeller, who testified at a July 9 hearing of the committee's panel on energy and power.

But the 90-day deadline for other agencies is still difficult, according to Wright. "That's a rather draconian way to go about it," he said. "Be careful what you ask for."

Speaking more generally, Wright said that resource agencies are doing their best. "To be fair to these agencies, they have charges to do a lot of different things and one of those things is pipeline siting. With limited budgets, limited personnel, they are doing their triage the best they can to try and meet schedules."

"My project managers know who their counterparts are at the other permitting agencies that are involved and do a pretty good job of trying to herd the cats," he said.

JP Freire, a spokesman for Pompeo, emphasized that the congressman had considered FERC's concerns and modified the bill to start the 12-month timer once the application is complete. "At no time during that hearing, in any other public forum, or privately in our talks, did anyone from FERC describe this legislation as 'draconian.' In fact, the 90-day requirement is taken directly from existing FERC regulations."

"The entire application process takes over two years: Prefiling is the only part affected by this legislation, which leaves untouched FERC's NEPA review, other permitting agencies' 90-day review, the 30-day extension period, the 30 days after where agencies can proffer conditions."

Meanwhile, other panelists suggested there could be alternative ways to speed pipeline permits.

For example, if a pipeline project deals with many regional divisions of an agency like the Army Corps of Engineers, the agency should identify one division to take the lead and a single contact person for the permit, said Sandi Snodgrass, a partner at Holland & Hart.

Agencies could also use linear facility specialists that understand that projects like pipelines have different considerations, Snodgrass said. "With limited budgets, limited manpower, it may be a pie-in-the-sky kind of request," she acknowledged.

But agencies could help resolve the resource problem by hiring third-party contractors — paid for by the applicant — to help with the permitting process, Snodgrass said. Agencies already use contractors to do environmental reviews under the National Environmental Policy Act, and there are regulations to separate the applicant from the contractor, she said.

"Why not have something similar for application processing? A non-NEPA use of a third-party contractor could help some of those staffing and budget and timing issues."

Sharon Buccino, director of the land and wildlife program at the Natural Resources Defense Council, said she was on board with these ideas. "I would not disagree with any of those. I think they all sound like constructive ideas. . . . I think there's definite agreement that we want projects that provide protection to get done as quickly as possible."

But problems arise when the process creates a choice between environmental protection and speedy permitting, Buccino said. "Some of the proposals — and I would put the one in H.R. 1900 that deems it approved in this category — are willing to sacrifice protection for speed and that's where the real controversy comes."

"In most cases we don't have to make that choice. But when we end up with that choice, that's when an environmental group or citizens who are affected by it . . . have real opposition to it.

Patrick Hester, associate general counsel for Spectra Energy, also liked the idea of using third-party contractors. Agency staffs have been overwhelmed for years and as more projects are proposed and more budget cuts kick in, they are further restricted in what they can do, he said.

So far, Spectra has received mixed reactions from agencies on using contractors, Hester said. "We have been to Fish and Wildlife, talked to one office and they say, 'Yeah we'll do that, we'll get some third-party help.' And you talk to another office and they say, 'that's against the rules.' So what do you do?"

It would help to have legislation that would allow agencies to get that type of funding under their respective laws, Hester said. "All the applicant does is pay for it, they have nothing to do with that third-party's efforts. I think that is a huge solution if we can get it," he said.

Regarding the idea to use third-party contractors, Pompeo in a statement said, "I am willing to consider any measure that would provide both certainty and efficiency in the permitting process. The current process is too cumbersome and slow and we want to see better results."

Kate Winston

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The Wall Street Journal
October 26, 2013

TEXAS KNOWS SOMETHING ABOUT REGULATING 'WILD WEST MARKETS'

Think of energy markets – electricity and natural gas -- and trading and you probably have flashes of Enron perp walks or traders maniacally laughing as they make big bucks as blackouts roll across California.

By David Weidner

Think of energy markets – electricity and natural gas — and trading and you probably have flashes of Enron perp walks or traders maniacally laughing as they make big bucks as blackouts roll across California.

That was more than a decade ago.

Once again, though, trading in energy markets is making headlines.

The Federal Energy Regulatory Commission not only dinged J.P. Morgan for $410 million, but Barclays PLC ($473.9 million), Deutsche Bank ($1.67 million), Rumford Paper Co. ($10 million) and Competitive Energy Services LLC ($7.66 million) in just the last 11 months for manipulating markets. Dozens more cases are pending or were resolved without enforcement actions.

Depending on whom you ask, energy markets are either rife with fraud and manipulation, or FERC has gone haywire with investigations, prosecutions and other enforcement actions.

The problem, though, is this: In a deregulated market, what constitutes market manipulation? Except at FERC there doesn't seem to be enough agreement. Market participants say the rules are unclear. And, they say, there isn't enough clear legal precedent to guide their actions, a claim FERC rejects.

So how to fix the mess?

The answer, interestingly enough, may lie in Texas. The approach taken by that state's regulators, shifts some of the burden of policing the markets from the regulators to the traders.

Right now FERC has been employing an enforcement policy that William Hogan, a professor of global energy policy at Harvard University says is similar to former Supreme Court Justice Potter Stewart's famous line regarding pornography: "I know it when I see it" – an approach that's left many traders bewildered and guessing as to what is permissible and what isn't.

FERC argues that its rules are not only clear, but that they adhere to established Securities and Exchange Commission trading rules.

What's in agreement: the electricity and natural gas trading markets, deregulated in the 1990s, are "young," said Susan Court, the former head of enforcement at FERC who oversaw the writing of the commission's first anti-manipulation regulations.

"There's not a body of law that market participants can look to to see if their clients' actions are kosher," she said.

Critics, including Mr. Hogan, Barclays, Deutsche Bank and former FERC staffers, say legal trades are have been the subject to commission investigations if the trades happen to move prices in any way.

FERC doesn't see it this way. Led since 2009 by a former consumer advocate and lawyer, Jon Wellinghoff, FERC has argued that the rules are clear and the commission is simply engaging in strong enforcement. "At this point, there is ample guidance on the meaning of our anti-manipulation rule," the commission said in a statement.

Given the complicated and unsettled nature of the energy markets, it would be logical to assume this is a tangled mess with no easy fix.

But the "Texas rule" just might create better and faster rulemaking and ease the burden of after-the-fact enforcement.

In its simplest form here's how the Texas rule works: a trader finds that buying an underlying contract for power delivery has a sudden and predictable effect on derivative contracts in that market. This is hardly a unusual occurrence in energy markets, Mr. Hogan said.

"In the energy markets everything is interconnected to everything else," he said. "We have bad market designs in place. Sometimes people make mistakes when they put together these rules."

In other words, trades that cause price movement may be bad for the market and should be illegal but aren't because of vague or poor guidance from FERC.

Under the Texas rule, the trader can use a strategy using both the underlying contract and the derivative to make money.

But the trader must first report the strategy to regulators after the first trade hits the tape. Until there is a regulation preventing such "manipulation" it's fair game.

Such a rule may not be perfect. Real damage could be done to investors and energy consumers if serious manipulation takes place. Remember California.

But in a market where there seems to be little agreement on what's fair and what's foul, the Texas rule shares responsibility for the market's failings.

It may not always offer a clear-cut standard, but in many cases it would offer a better test. Report an inefficiency and you're on the team. Exploit it in the shadows and you could get what's coming to you.

So here's the kicker – there actually is a similar rule at FERC. It's been there for a while.

"Just because it's there doesn't mean it's being followed," Ms. Court, the former FERC enforcement chief said. "It's hard to track that. Maybe to the outsider it seems that way. It's hard to prove it's not happening."

But, Ms. Court said, it's not obvious based on the chaos in the electricity and gas markets that a true Texas-style rule is at work.

Whether it's happening or not, energy traders are up in arms, and FERC is digging in. It feels like a stand-off.

A little Texas could go a long way.

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Greenwire

POLITICS: AS MURKOWSKI PONDERED BINZ'S FATE, SHE RELIED ON STAFFER WHO HAD CASE BEFORE HIM IN COLO.

Manuel Quiñones and Hannah Northey, E&E reporters

Published: Friday, October 25, 2013

As she was pondering in recent weeks whether to support Ron Binz, President Obama's nominee to head the Federal Energy Regulatory Commission, Sen. Lisa Murkowski (R-Alaska) got advice from a variety of top aides, including one who had dealt with Binz years earlier.

Patrick McCormick, Murkowski's chief counsel on the Senate Energy and Natural Resources Committee, where she is ranking member, used to be an attorney with Hunton & Williams LLP. The firm represented coal giant Peabody Energy Corp. when the company was involved in a case before the Colorado Public Utilities Commission and Binz was its chairman.

It seems unlikely that McCormick's history with Binz ultimately had any bearing on Murkowski's decision to oppose his nomination -- Binz withdrew from consideration in early October as opposition grew in the Senate Energy Committee. Murkowski has said she objected to Binz's actions as a regulator and statements he made during the confirmation process. In particular, the senator said Binz lied to her about his contacts with outside groups that were promoting his nomination.

"With me, it's all about integrity," Murkowski said at an event earlier this month. "This is an agency that is pretty critical, and every one of you in this room knows that who we have on the FERC is important."

Still, McCormick's Peabody connection shows just how close the ties between industry groups and the policymakers that oversee them can be -- and may serve as a cautionary tale for Obama as he searches for someone else to head FERC, a regulatory agency that doesn't always generate headlines but has become more prominent amid debates over America's energy future.

Certainly, as the Senate Energy panel was preparing to consider Binz's nomination, McCormick was more familiar with the nominee than just about anybody else on Capitol Hill. McCormick was an attorney for Peabody in 2010 and 2011 in a case before Binz's PUC.

The top aide offered to recuse himself from being a part of Murkowski's deliberations. But the senator said she wanted his and other people's opinions -- and Binz was apparently aware of the connection.

Murkowski spokesman Robert Dillon said, "As she has previously stated, Sen. Murkowski met with Mr. Binz and drew her own conclusion about whether he was qualified for the position of FERC chairman."

At issue in the Colorado case was the state's new "Clean Air, Clean Jobs Act." Approved in 2010 with Binz's backing, the law included tougher emission controls for power plants and a reduction in coal use for electricity production.

In proceedings before the PUC and Binz, Peabody argued in favor of keeping coal an important part of the state's generation capacity as regulators mulled the new statute's implementation.

"Colorado will likely make precipitous and wrong electric resource decisions that will prove costly to its present and future citizens," Peabody said in a July 2010 filing.

Specifically, Peabody was responding to another filing by the Public Service Co. of Colorado, a subsidiary of Xcel Energy Inc., which supported the clean energy law and Binz's nomination to lead FERC.

"A literal 'dash to gas' -- without due process or consideration for the effect on consumers and the State's economy -- would cost Colorado and its citizens the ongoing and future benefits of Public Service's current low cost fleet of base load electric generation fueled by nearby coal," Peabody wrote in its filing.

Binz and his defenders have blamed conservative and pro-coal groups for killing his nomination. Their assertions fit into the narrative that Binz went after coal and that the industry, in turn, came back to get him.

But critics say Binz has only himself to blame. For one, opponents saw him as too much of a renewable energy activist, and they cite his efforts in Colorado as an example.

They also cite his working with environmental and business interests to win his own confirmation to head FERC, and the fact that he called an Xcel executive in 2010 to gauge support for his reappointment to the Colorado PUC.

Binz faced a unified opposition from Energy and Natural Resource Committee Republicans, including Murkowski, and strong concerns from Democrats like Louisiana Sen. Mary Landrieu. Sen. Joe Manchin (D-W.Va.) had pledged to oppose the nominee.

"At the end of the day, opposition from Democratic members of the committee sank Mr. Binz's nomination, so concern about his qualifications was a widely held view," Dillon said. "The information about Mr. McCormick's former interactions with Mr. Binz is a matter of public record."

McCormick left Hunton & Williams and the Colorado PUC case -- which remains ongoing -- in April 2011 to join Murkowski's staff as special counsel for Energy Committee Republicans. Records show he became chief counsel this year.

McCormick has represented numerous energy-related clients during his many years in law and lobbying, including Xcel Energy, FirstEnergy Corp. and Southern Co.

The website Legistorm, which compiles disclosure records and congressional staff activity, noted that McCormick took a significant pay cut when he jumped from Hunton to work on Capitol Hill.

Dan Adamson, Energy Chairman Ron Wyden's (D-Ore.) senior counsel, used to be an executive at the Solar Energy Industries Association and was once a top official at FERC.

Another Wyden senior counsel, Todd Alan Wooten, is listed as having lobbied for American Electric Power Co. Inc. and the Coalition for Emission Reduction Projects while at Van Ness Feldman LLP.

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Electric

Megawatt Daily
October 28, 2013

MISO, PJM WILL REVIEW 76 GRID PROPOSALS

The Midcontinent Independent System Operator and the PJM Interconnection will review 76 transmission project proposals submitted by 12 developers aimed at resolving major interregional transmission constraints, officials from the grid operators said at a Friday meeting.

MISO and PJM use their interregional planning process to study cross-border transmission issues and evaluate potential transmission projects that would address congestion on the seams.

The ISOs have already identified the set of flowgates that are expected to have the highest congestion costs under three future scenarios with varying levels of wind generation. Proposed transmission projects to help resolve congestion on these flowgates were due by October 11.

At a Friday Interregional Planning Stakeholder Advisory Committee meeting, representatives from MISO and PJM said they will review 76 proposed projects put forward by 12 developers.

Ameren submitted the most proposals of any company, with 16 proposed projects to relieve congestion on the identified flowgates. Ameren's 16 proposals ranged in projected cost from a $33 million 161-kV line running 18 miles from the East Calamus substation to the Sub 56 substation in eastern Iowa to a $286 million 345-kV line running 140 miles from the Lakefield Junction substation to the Adams substation in southern Minnesota, according to the presentation.

NIPSCO submitted 14 proposals. NIPSCO's least expensive proposal involves $20 million of upgrades to 138-kV and 345-kV lines near southern coast of Lake Michigan, while its most expensive proposals is a $550 million project involving a new 765-kV line from the Pontiac substation in northeastern Illinois to the Reynolds substation in northwestern Indiana, according to the presentation.

Transource submitted 12 proposals, ranging from $21 million installation of new breakers and controls at three substations in Virginia and West Virginia to a $255 million 345-kV line from Franklin to Montezuma in Iowa, according to the presentation.

RITELine submitted 9 proposals, including the most expensive proposed projects. Two of RITELine's proposals involved a $1,600 million 765-kV line from the Byron substation in northern Illinois to the Blue Creek substation in eastern Indiana, according to the presentation. Both of these proposed projects would be constructed in phases, with an overall expected completion date of 2026.

ITC submitted the next most expensive proposal, an $884 million project involving a 65-mile 500-kV high voltage direct current line through Lake Michigan from the Kewaunee substation in eastern Wisconsin to the Ludington substation in western Michigan, according to the presentation. ITC submitted 2 other proposals.

Additionally, Indianapolis Power & Light submitted 6 proposals, Duke American Transmission Company submitted 5 proposals, Central Transmission submitted 4 proposals, Exelon submitted 2 proposals and InfraREIT Capital Partners and Pioneer Transmission each submitted 1 proposal. Pioneer and Transource also submitted a joint proposal.

Officials from MISO and PJM said they are beginning to study the proposed solutions through the cross-border transmission solution evaluation process and then move on to their individual regional evaluation processes in the spring. Any project recommendations would be made around June 14, according to the presentation.

From: Andres, Howard <handres@energetics.com>
Sent: Friday, May 31, 2013 3:58 PM
Cc: Jereza, Katie; Massello, Rebecca
Subject: Current Situation Report, 5/31
Attachments: 05-31-2013 Current Situation Report.pdf

Attached is this week's Current Situation Report, including the following articles:

- ICS-CERT Issues Advisory for Vulnerability in the 3S CODESYS Gateway Application
- Lofty Perch President Mark Fabro Discusses Importance of Developing a Security Culture
- Department of Justice Deputy Attorney General James Cole Suggests Cybersecurity Practices
- FERC Chairman Jon Wellinghoff Announces Resignation
- Electric Power Research Institute's Annabelle Lee on Cryptographic Key Management
- Bipartisan Commission Releases Report on Impacts of International Intellectual Property Theft
- The Basics of Quantum Cryptography Discussed in *The Economist*

Current Situation: Energy Delivery Systems Security

Prepared by Energetics Incorporated for the National SCADA Test Bed Program (NSTB)

May 31, 2013

Vulnerabilities and Cyber Incidents

- **ICS-CERT Issues Advisory for Vulnerability in the 3S CODESYS Gateway Application,** http://ics-cert.us-cert.gov/advisories/ICSA-13-142-01. A denial-of-service vulnerability was identified by independent researcher Nicholas Miles, which may allow an attacker to remotely crash the Gateway server application or execute arbitrary code if exploited. 3S has developed an update to mitigate the vulnerability.

Events and Interviews

- **Lofty Perch President Mark Fabro Discusses Importance of Developing a Security Culture,** http://www.theregister.co.uk/2013/05/23/scada_security/. Speaking at AusCERT 2013, Fabro discussed how SCADA operators play a role in defending against attackers because they can notice unusual processes that occur and take some sort of action. At the same time, personnel can be the tipping point for an intrusion, where an individual may perform an inappropriate action such as inadvertently clicking on a malicious link.
- **Department of Justice Deputy Attorney General James Cole Suggests Cybersecurity Practices,** http://www.networkworld.com/community/node/83098. Speaking at the Georgetown Cybersecurity Law Institute, Cole said that companies and the government can work together to combat cyber threats through prevention, preparedness, and incident response. He discussed other areas that companies should consider, including education, information sharing, and financial obligation to stakeholders.

Federal Agency Cybersecurity Programs and Hearings

- **FERC Chairman Jon Wellinghoff Announces Resignation,** http://www.powermag.com/POWERnews/FERC-Chair-Wellinghoff-Announces-Resignation_5674.html. Wellinghoff's term ends June 30, and is expected to remain as chair at least until a replacement has been confirmed by the Senate. Wellinghoff was appointed as commissioner in 2006 and named chairman in 2009. During his tenure, FERC implemented changes to confront cyber attacks and boost infrastructure investment.

Reports and Surveys

- **Electric Power Research Institute's Annabelle Lee on Cryptographic Key Management,** http://online.electricity-today.com/doc/electricity-today/et_may_2013_digital/2013051701/#42. The May issue *of Electricity Today Magazine* includes an article by Lee, which provides an overview of the variety of data protections that cryptography can provide, along with considerations for applying cryptographic key management systems to advanced metering infrastructure.
- **Bipartisan Commission Releases Report on Impacts of International Intellectual Property Theft,** http://www.forbes.com/sites/emmawoollacott/2013/05/23/us-should-get-tough-on-chinese-ip-theft-committee-warns/. Developed by the Commission on the Theft of American Intellectual Property, the report discusses how cyber espionage is a growing problem and how long supply chains present a challenge to identifying exploited technologies. The report provides over 20 short, mid, and long term

recommendations to mitigate IP theft. *The IP Commission Report* can be found here: http://www.ipcommission.org/report/IP_Commission_Report_052213.pdf.

Other Related-Cyber Issues

- **The Basics of Quantum Cryptography Discussed in *The Economist*,** http://www.economist.com/news/science-and-technology/21578358-eavesdropping-secret-communications-about-get-harder-solace. The article provides an overview of quantum cryptography methods as well as various activities underway, including the pocket-sized QKD transmitter being developed by Los Alamos National Laboratory.

No Relevant News Items for These Categories:

- Standards and Policies
- Cyberwar and Cyberterrorism
- Training, Education, and Collaboration

From: Troutman Sanders LLP <communications@troutmansanders.com>
Sent: Monday, June 03, 2013 3:52 PM
To: Joseph McClelland
Subject: Washington Energy Report - June 3

June 3, 2013

Chairman Jon Wellinghoff Announces Resignation

On May 28, 2013, various news outlets reported that FERC Chairman Jon Wellinghoff had tendered his resignation to President Barrack Obama. Although nothing official has been released by FERC, these same news outlets also reported that Chairman Wellinghoff intends to remain at FERC until his replacement is confirmed by the United States Senate. If no replacement is confirmed by June 30, 2013, the end of Chairman Wellinghoff's term, he may hold-over until the end of the Congressional term or until a replacement is confirmed. [Read more →]

FERC Grants State Regulators Increased Authority in MISO Transmission Cost Allocation

On May 23, 2013, FERC approved revisions to the Midcontinent (previously Midwest) Independent System Operator, Inc.'s ("MISO") Agreement of Transmission Facilities Owners to Organize the Midwest Independent Transmission System Operator, Inc. ("Transmission Owners Agreement") that grant increased authority to state regulators. The revisions allow for the Organization of MISO States ("OMS") – a regional state committee comprised of state, city, and local regulatory officials within MISO's footprint – to have enhanced authority in determining transmission cost allocation methodologies, by requesting that MISO make a filing pursuant to Section 205 of the Federal Power Act ("FPA"). [Read more →]

FERC Announces Technical Conference on Flexible and Local Resources Needed for Reliability in CAISO

On May 28, 2013, FERC announced that it will hold a technical conference on the California Independent System Operator Corporation's ("CAISO") proposal to provide financial assistance to resources that are either at risk for retirement or are uneconomic, but are still needed for flexible capacity and local reliability (the "FLRR Mechanism"). [Read more →]

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>> Washington Energy Report
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For news and developments related to the considerations of renewable energy projects and investments, visit Renewable Energy Insights.

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News

Markets & Pricing

NYMEX falls ahead of storage report; cash rises
The NYMEX November gas futures contract fell 9.6 cents to a $3.668/MMBtu settlement on Monday as selling picked up steam at the end of the session after the contract broke through $3.69 support. Spot prices got a decent bump-up on a shot of weather demand ... More

Supply/Demand

EU readies draft shale gas rules amid growing fracking concern
The European Commission is set to propose legislation setting out common principles for shale gas exploration across Europe, in a bid to help counter a growing public "concern and distrust" over hydraulic fracturing, EU Environment Commissioner Janez Potoc ... More

Gas to rival coal, oil globally by 2025: GE report
Natural gas will rival, and possibly surpass, oil and coal in its share of global energy use by 2025, as networking and environmental effects tilt users toward gas, according to a new report from General Electric. Overall, worldwide gas consumption will gr ... More

Markets & Pricing

Coal/gas debate stoked by EPA's 3% 'adder'
In this era of relatively cheap and abundant shale gas, exactly how high would prices have to rise to make it economical to build a new coal-fired power plant instead of a combined-cycle gas unit? According to the Obama administration, that magic number is ... More

Company/Industry

FERC Chairman Wellinghoff to join law firm upon exit
Chairman Jon Wellinghoff of the US Federal Energy Regulatory Commission will join the law firm Stoel Rives upon leaving the commission, the firm announced Monday. Wellinghoff told President Barack Obama in May that he would step down as FERC chair once a r ... More

Transportation/Infrastructure

Devon, Crosstex to combine midstream assets
The combination of most Devon Energy and Crosstex Energy assets will create a company whose midstream holdings encompass many of North America's premier oil and gas plays with projected earnings of $700 million next year, the companies announced Monday. Th ... More

Company/Industry

Interior fines Apache for improper royalty deductions
The Interior Department announced Monday that it had assessed a $2.7 million civil fine against Apache Corp. for the alleged "knowing or willful" submission of false data relating to royalties from Gulf of Mexico leases. The Interior Department's Office of ... More

Supply/Demand

Venture Global wins DOE approval for FTA exports
The Department of Energy has authorized Venture Global LNG to export liquefied natural gas from a proposed terminal in Louisiana to countries that have free trade agreements with the US. The permit will allow Venture Global to export 670,000 Mcf/d of gas a ... More

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News

Appalachian NGL projects offer price advantage
With two new major pipelines coming online with the capacity to move up to 590,000 b/d of natural gas liquids out of the Marcellus and Utica shales to the Gulf Coast, analysts are divided on whether building ethane crackers near these basins is economicall ... More

Industry, enviros praise Texas well integrity rules
Energy industry advocates and environmental groups alike were largely pleased with a new set of rules regarding the integrity of oil and gas wells released late last week by the Texas Railroad Commission. ... More

San Bruno penalties 'wrong,' could harm safety: PG&E
While there should be penalties in the San Bruno case, Pacific Gas & Electric said late Friday that proposals to assess the utility $2.25 billion for wrongdoing are excessive and could actually harm efforts to make investments in safety upgrades. ... More

NYMEX drops 6.3 cents on milder weather; cash rises
The NYMEX June gas futures contract settled Tuesday at $4.174/MMBtu, down 6.3 cents, as traders eyed a moderating weather outlook. Cash markets largely rose as players covered short positions after the holiday weekend and dealt with some weather-related ... More

FERC Chairman Wellinghoff tells White House he's moving on: sources
Apparently having acknowledged that another term on the commission is not in the cards, Federal Energy Regulatory Commission Chairman Jon Wellinghoff has notified the White House that he will resign, effective when a replacement is confirmed, according to ... More

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